



**QUEENSTOWN LAKES DISTRICT COUNCIL**  
**COMMISSION TO CONSIDER PLAN CHANGE 49**  
**Commissioner David Whitney**

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**REPORT & RECOMMENDATIONS OF INDEPENDENT COMMISSIONER**  
**PLAN CHANGE 49 : EARTHWORKS**  
**DATED : 29 MAY 2015**

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### **Abbreviations**

District Plan or Operative District Plan – Queenstown Lakes District Plan  
PC 49 – Proposed Plan Change 49  
QLDC or the Council – Queenstown Lakes District Council  
RMA or the Act – Resource Management Act 1991  
ORC – Otago Regional Council  
ONL – Outstanding Natural Landscape  
ONF – Outstanding Natural Feature  
VAL – Visual Amenity Landscape

## **1.0 THE HEARING**

The hearing on proposed Plan Change 49 and the submissions (including further submissions) thereto took place at the Copthorne Lakefront Hotel at Queenstown on Wednesday 3 December 2014 and Thursday 4 December 2014.

## **2.0 APPEARANCES & INFORMATION SIGHTED**

### ***Submitters:***

**For Millbrook Country Club Ltd, RCL Queenstown Pty Ltd, Barley Station Ltd, Royalburn Farm, Challenge Manawatu Ltd, Queenstown Central Ltd, Glentui Heights Ltd, IHG Queenstown Ltd & Carter Queenstown Ltd, Cambricare NZ Ltd, Lake Wakatipu Station Ltd and John Edmonds & Associates Ltd.**

**Mr Daniel Wells**

**For Glen Dene Ltd**

**Mr Richard Burdon**

**For Te Anau Developments Ltd**

**Ms Fiona Black**

**For Remarkables Park Ltd, Shotover Park Ltd, Remarkables Stud Farm Ltd, Remarkables Country Ltd (formerly QTN Farm Ltd), Coronet Estates Ltd, Wakatipu Retreat Ltd, Malaghans Park Ltd & Arrowtown Downs Ltd**

**Mr Brian Fitzpatrick**

**For Blackmans Creek Holdings No. 1LP, Coronet View Holdings Ltd, Glencoe Land Development Company Ltd, Glencoe Station Ltd, Jacks Point Residents & Owners Association Incorporated, Lake's Edge Developments Ltd, Mt Cardrona Station Ltd, Mt Christina Ltd, Parkins Bay Preserve Ltd, Pisidia Holdings Ltd, Queenstown Corporation Ltd, Real Journeys Ltd, Robert Stewart, Treble Cone Investments Ltd and Shotover Country Ltd.**

**Mr Warwick Goldsmith  
Mr Hamish McCrostie**

**For Cardrona Alpine Resort**

**Mr Warwick Goldsmith  
Mr Erik Barnes**

**For Roland & Keri Lemaire-Sicre**

**Mrs Keri Lemaire-Sicre**

**Correspondence from or on behalf of other submitters** who were unable to attend the hearing was tabled; being correspondence from:

Burton Planning Consultants Ltd for **BP Oil NZ Ltd, Mobil Oil NZ Ltd and Z Energy Ltd (the Oil Companies)** being correspondence dated 1 December 2014.

**Patrick Kennedy** being an email dated 2 December 2014.

**Transpower New Zealand Ltd** being correspondence dated 2 December 2014.

Mitchell Partnerships Limited for **Queenstown Airport Corporation** being correspondence dated 3 December 2014.

***Officers in Attendance:***

**Mr Tony Pickard**, Senior Policy Planner, Queenstown Lakes District Council. Mr Pickard prepared a section 42A report on Plan Change 49 and the submissions including further submissions received thereto.

**Mr Matthew Paetz**, District Plan Manager, Queenstown Lakes District Council. Mr Paetz attended the hearing on 4 December 2014 only.

**Ms Julia Chalmers**, District Plan Administrator, Queenstown Lakes District Council. Ms Chalmers provided administrative support to the Commission at the hearing.

***Information Sighted***

Mr Pickard's section 42A report was circulated prior to the hearing. Attached to that report as appendices were Section 22 Earthworks being core provisions of Plan Change 49 as amended consistent with the recommendations of the section 42A report; and the further submissions. The Commission was also provided with copies of all of the submissions; a summary of the decisions requested; the Section 32 Analysis and Appendices which included the Monitoring Report on the Earthworks Provisions of the District Plan dated May 2012; and Plan Change 49 as publicly notified.

The Commission was also provided with a copy of the report and recommendations of the Queenstown Lakes District Council's Variations Hearings Panel on Variation 8 – Earthworks dated 11 November 2002 as background material.

### **3.0 INTRODUCTION**

Plan Change 49 has been prepared by the Queenstown Lakes District Council and relates to earthworks. The plan change as notified deletes Section 4.11 Earthworks from the District Wide section of the Operative District Plan and various rules and assessment matters specific to earthworks from the various zones contained in the Operative District Plan. PC 49 also amends the definition of Earthworks and includes new definitions for Cleanfill and Cleanfill Facilities, Bulk Earthworks and Bed (for waterbodies). PC 49 introduces a new Section 22 : Earthworks; and includes Interpretative Diagrams relating to earthworks and amends Section 15 : Subdivision, Development and Financial Contributions to include a new Rule 15.2.20 relating to Earthworks.

The purpose of PC 49 is to simplify and streamline the earthworks provisions within the District Plan.

The public notice relating to PC 49 as notified advised that the current plan provisions include rules for earthworks in numerous sections and that PC 49 will consolidate the

majority of the Earthworks requirements into one new section, making it simpler to use and interpret the plan.

## 4.0 NOTIFICATION AND SUBMISSIONS

PC 49 was notified for submissions on 2 July 2014 and the period for submissions closed on 30 July 2014. A summary of the decisions requested in submissions was publicly notified on 24 September 2014 and the period for further submissions closed on 8 October 2014.

A total of 58 original submissions and 2 further submissions were received. **Appendix 1** to this report lists the submitters and further submitters; and **Appendix 2** contains a summary of the decisions requested and identifies the further submission points that relate to the relevant points raised in the original submissions.

At the commencement of the hearing Mr Pickard advised us that the submission by Glen Dene Ltd was received approximately 3 working days after the closing date for original submissions. The Commission has the discretion to waive a failure to comply with a time limit having taken into account the matters stated in section 37A of the Act. Having taken these matters into account the Commission hereby extends the time limit with respect to the submission by Glen Dene Ltd pursuant to section 37 of the Act.

Mr Pickard also noted that a further submission was received from Heritage New Zealand on 8 October 2014 but that this was incomplete. A complete submission (which included all of the submission points that the further submission related to) was received on 10 October 2014. For the avoidance of doubt the Commission also extends the time period for receipt of the complete Heritage New Zealand further submission pursuant to section 37 having regard to the matters to be taken into account pursuant to section 37A of the Act.

This report assesses the points raised by submitters and further submitters and the Commission makes recommendations in Sections 8.1-8.10 as to whether these points should be **accepted, accepted in part, or rejected.**

## 5.0 DESCRIPTION OF PLAN CHANGE 49

PC 49 as notified sought a number of amendments to the Queenstown Lakes District Plan. Key changes are as follows:

1. A new Section 22 : Earthworks section with the issues clearly identified in the purpose and addressed in seven new objectives and associated policies that are grouped under the following headings:
  - Earthworks and Environmental Effects
  - Landscape and visual amenity
  - Land stability and flooding
  - Earthworks in Rural areas and Ski Areas
  - Water bodies
  - Cultural heritage and archaeological sites
  - Cleanfill facilities
2. Revision of the definition of 'Earthworks' and inclusion of new definitions for 'Cleanfill' and 'Cleanfill Facilities', 'Bulk Earthworks' and 'Bed' (for water bodies).

3. Amendment to the definition of Mining to include gravel extraction and processing and the exclusion of these activities from Earthworks.
4. Site standards that trigger Controlled, Restricted Discretionary, Discretionary and Non-Complying activity resource consents where thresholds are not met and a more specific non-notification clause.
5. A key Site Standard being the maximum total volume of earthworks (m<sup>3</sup>). Zones are grouped into seven tiers with increasing maximum volume of earthworks ranging from 100m<sup>3</sup> to 1000m<sup>3</sup>. The tiers reflect the sensitivity of the receiving environments, scale of development anticipated and the ability to internalise adverse effects on larger sites. The area (m<sup>2</sup>) threshold has been deleted in favour of volume only thresholds.
6. The volume standard to work in conjunction with 'Height of cut and fill and slope' and 'Environmental Protection' standards. Specific provisions in relation to water bodies, cultural heritage and archaeological sites are retained with minor modifications.
7. Bulk earthworks in excess of 50,000m<sup>3</sup> associated with either land-use or subdivision to be a Discretionary Activity. Cleanfill facilities are also listed as a Discretionary Activity.
8. Cleanfill material is identified as acceptable only in certain circumstances as part of Earthworks or for deposition into Cleanfill Facilities.
9. A new Subdivision rule is proposed specifying Controlled Subdivision Activity status where subdivision involves earthworks.
10. A small number of zone specific rules have been carried across into the new Section 22 : Earthworks, consistent with a standard approach of removing the earthworks provisions from each separate zone.

The provisions seek to enable earthworks that are a necessary part of subdivision, development and access, provided they are undertaken in a manner that does not adversely affect communities and the natural environment.

Mr Pickard explained the background to PC 49 in his section 42A report. Mr Pickard advised that in May 2012 a monitoring report was prepared to assess the current provision for earthworks throughout the Plan. The report identified the following as key issues:

- A large volume of resource consent applications are generated by the current rules, for no obvious environmental benefit.
- This imposes significant costs on the community and an unnecessary burden on Council's resource consent planners.
- The current rules do not respond appropriately to the various urban and rural environments in the District. Some areas justify more protection, other areas less protection.
- The current rules lack clarity and are spread across multiple chapters.
- There is a significant amount of repetition across chapters which adds unnecessary length to the District Plan.

- There are gaps and poor linkages in the current policy.

Mr Pickard advised that in order to address these issues, the key policy objectives of PC 49 are to:

- Simplify the policy, and capture all earthworks policy in one chapter.
- Reduce the volume of resource consent applications for earthworks.
- Reduce the costs of development (without compromising the integrity of the environment).
- More appropriately tailor the rules to the sensitivity of the environment.
- Resolve the gaps and poor linkages in the policy.

## 6.0 STATUTORY REQUIREMENTS

Section 73(1A) of the Resource Management Act 1991 (the Act) confirms that a district plan may be changed by a territorial authority in the manner set out Schedule 1 to the Act.

Clause 10 of Schedule 1 requires that a local authority give a decision on the matters raised in submissions, and the reasons for accepting or rejecting the submissions, although the local authority is not required to give a decision that addresses each submission individually. The decision may also make any consequential alterations necessary to the proposed plan change arising from the submissions.

Section 75 of the Act prescribes the contents of district plans. Subsection (3) states:

- (3) a district plan must give effect to-*
- (a) any national policy statement; and*
  - (b) any New Zealand coastal policy statement; and*
  - (c) any regional policy statement.*

Subsection (4) goes on to state that a district plan must not be inconsistent with a water conservation order or a regional plan.

Section 74 requires that a territorial authority shall prepare and change its district plan in accordance with its functions under section 31; the provisions of Part 2; a direction given under section 25A(2); its obligation (if any) to prepare an evaluation report in accordance with Section 32; its obligation to have particular regard to an evaluation report prepared in accordance with Section 32; and any regulations.

Section 74(2), (2A) and (3) state as follows:

- (2) In addition to the requirements of section 75(3) and (4), when preparing or changing a district plan, a territorial authority shall have regard to—*
- (a) Any—*
    - (i) Proposed regional policy statement; or*

*(ii) Proposed regional plan of its region in regard to any matter of regional significance or for which the regional council has primary responsibility under Part 4; and*

- (b) Any—
- (i) Management plans and strategies prepared under other Acts; and*
  - (ii) [Repealed]*
  - (iia) Relevant entry in the Historic Places Register; and*
  - (iii) Regulations relating to ensuring sustainability, or the conservation, management, or sustainability of fisheries resources (including regulations or bylaws relating to taiapure, mahinga mataitai, or other non-commercial Maori customary fishing),—*

*to the extent that their content has a bearing on resource management issues of the district; and*

*(c) The extent to which the district plan needs to be consistent with the plans or proposed plans of adjacent territorial authorities.*

*(2A) A territorial authority, when preparing or changing a district plan, must take into account any relevant planning document recognised by an iwi authority and lodged with the territorial authority, to the extent that its content has a bearing on the resource management issues of the district.*

*(3) In preparing or changing any district plan, a territorial authority must not have regard to trade competition or the effects of trade competition.*

*(emphasis added above by underlining)*

The Commission is only empowered to make a recommendation to the territorial authority in terms of the limits of its delegated authority under section 34A (1) of the Act.

## **7.0 THE EVIDENCE**

### **7.1 Officer's Introductory Remarks**

#### **Mr Tony Pickard**

**Mr Pickard** formally presented his section 42A report dated 17 November 2014 that was taken as read.

Mr Pickard drew our attention to various amendments which he wished to make to his section 42A report and/or the provisions of Plan Change 49.

Mr Pickard advised that the Queenstown Airport Mixed Use Zone should be included in Table 22.1 at Tier 5; and that the "Bendemeer Special Zone Residential Sections" should be referred to in Table 22.1 Tier 6.

Mr Pickard also drew the Commission's attention to an incorrect rule reference on page 31 of his report.

Mr Pickard noted that while PC 49 is a discrete plan change, it is linked to ongoing plan changes and appeals. Mr Pickard advised that the District Plan Review was progressing and that this is to be prepared in stages with Stage 1 to be released in May 2015 and Stage 2 to be released in 2016.

The Commission observed in this context that PC 49 changes provisions of the Operative District Plan only. Provisions relating to earthworks will also need to be prepared and included in the District Plan Review.

The Commission notes that PC 49 has been prepared to some extent in anticipation of the District Plan Review. As a consequence there is no reference to Section 4 District Wide Matters in PC 49.

The Commission raised questions with Mr Pickard about whether it is appropriate for rules to refer to Outstanding Natural Landscapes and Outstanding Natural Features given that the Operative District Plan provides for the identification of these through the assessment process. Questions were also raised with respect to the appropriateness of the reference to earthworks “adjacent to” a Statutory Acknowledgement Area given the difficulty in defining what is “adjacent to”. The value of including a specific definition of the term “archaeological site” in the District Plan (as recommended on page 57 of the section 42A report) was also questioned, given that the statutory definition of “archaeological site” may change over time.

The Commission notes that Mr Pickard responded later in the hearing to several matters raised by the Commission with him at the commencement of the hearing (see Section 7.3 of this report).

Mr Pickard confirmed that the reference to “pro-forma submissions” in Section 5.11 of his section 42A report simply refers to several submissions which have the same content.

## **7.2 Submissions and Evidence of Submitters**

It is noted that where rules and other provisions of PC 49 are referred to in this report these are the provisions as attached to the section 42A report and not the provisions as presented in notified PC 49, except where explicitly stated to the contrary.

### **7.2.1 Millbrook Country Club Ltd, RCL Queenstown Pty Ltd, Barley Station Ltd, Royalburn Farm, Challenge Manawatu Ltd, Queenstown Central Ltd, Glentui Heights Ltd, IHG Queenstown Ltd & Carter Queenstown Ltd, Cambricare NZ Ltd, Lake Wakatipu Station Ltd and John Edmonds & Associates Ltd.**

**Mr Daniel Wells** is a consultant planner with John Edmonds & Associates Limited who previously worked for the QLDC for 3½ years as a Policy Planner. Mr Wells appeared in support of the submissions lodged by the above parties.

Mr Wells confirmed that he had met with Mr Goldsmith (representing other parties) and Mr Pickard to discuss concerns raised by submitters. The focus of that meeting was on objectives and policies and Mr Wells acknowledged that the amended version of Section 22 attached to the section 42A report is a significant improvement on the notified version of PC 49.

Mr Wells favoured the use of the phrase to “avoid, remedy or mitigate” effects on the basis that “avoidance” is not always practicable.

Mr Wells considered that the focus should be on managing the effects of earthworks.

Mr Wells was concerned at the exemption for earthworks associated with the construction of a house within an approved residential building platform as provided for in proposed Rule

22.3.1ii(a)(iii). He questioned whether the plan provisions are sufficiently robust on the basis that they may be too open.

Mr Wells also considered that Rule 22.3.2.1(b)(iii) should also refer to the Jacks Point Zone and to Area D in the Northlake Zone. In Supplementary Evidence dated 3 December 2014 Mr Wells suggested that the Hydro Generation Zone (with respect to rules regarding “existing hydro generation activities”) and the Mt Cardrona Zone should also be included as exemptions in Rule 22.3.2.1(b)(iii).

Mr Wells considered that Rule 22.3.2.4(c) which is specific to the Jacks Point Zone is unnecessary. The rule provides for certain earthworks in the Jacks Point Zone to be a discretionary activity; whereas a breach of Site Standards is a discretionary (restricted) activity. Mr Wells considers that this provides sufficient discretion for decision makers.

Mr Wells opposes Rule 22.3.3i being a Site Standard which relates to the Volume of Earthworks. He considered that the control of the cut and fill (in Site Standard 22.3.3ii) provides sufficient control. He noted that it would be unusual to undertake earthworks which trigger the volume but not the cut and fill standards. Mr Wells considered that there is no compelling justification for Rule 22.3.3i.

Mr Wells noted that Site Standard 22.3.3ii(iii) establishes a maximum height for any fill at 2 metres. Mr Wells questioned whether this was appropriate having regard to the effects on neighbours. It was noted that there may be both visual and safety effects associated with fill to this height.

Mr Wells was concerned that the language in Site Standard 22.3.3iv(a) and (b) which refer to “Effective.... control measures” are not precise that this wording lacks certainty. Mr Wells noted the corresponding provisions in the Operative District Plan including the provisions of Site Standard 5.3.5.1viii being Item 3 on page 5-18, which he considered to contain better wording.

Mr Wells expressed support for the general intent of Table 22.1 which is to liberalise the maximum total volume of earthworks permitted in various zones. Mr Wells considered that Table 22.1 is very complex and appears to be attempting to manage visual effects through limiting the maximum total volume of earthworks. He considered that minimising effects of earthworks would have more validity.

Mr Wells also addressed specific provisions in Table 22.1. He questioned why townships such as Kingston (Tier 1) should be subject to a maximum total volume of earthworks of 100m<sup>3</sup> whereas townships such as Hawea and Albert Town are subject to the Tier 3 control of 300m<sup>3</sup>. Mr Wells questioned whether there was any difference between these communities in terms of level of sensitivity.

Mr Wells also noted that Special Zone Activity Areas were split between Tier 3 and Tier 4. Overall Mr Wells considered that a distinction between urban and rural areas would be a much simpler approach with, say, an allowance for up to 400m<sup>3</sup> of earthworks for urban areas. Such an approach would avoid unnecessary resource consents in his opinion.

Mr Wells also questioned whether a maximum total volume of 100m<sup>3</sup> should be provided with respect to historic areas of Arrowtown which are in Tier 1. Mr Wells noted that such areas may have archaeological values and be under Heritage New Zealand control.

Mr Wells also noted the reference to Outstanding Natural Landscapes (ONL) and Outstanding Natural Features (ONF) in Tier 2. He emphasised that the ONL/ONF are not zones at present and that PC 49 has to address the District Plan as it is. Given that

landscape categorisation is uncertain and needs to be assessed, he considered it inappropriate to refer to ONL/ONF in Table 22.1.

Mr Wells noted that Site Standard 22.3.3vi(b) states as follows:

*“(b) Earthworks shall not affect Ngai Tahu’s cultural, spiritual, historic and traditional association with land adjacent to or within a Statutory Acknowledgement Area (see Section 3).”*

Mr Wells has concerns with respect to the appropriateness of this rule. The words “shall not affect” are absolute and the words “land adjacent to” are uncertain. He noted that Statutory Acknowledgement Areas are not defined in Section 3 of the District Plan albeit that the Ngai Tahu Claims Settlement Act 1998 identifies various statutory areas in the district as listed in Section SA of the District Plan. Mr Wells considered that Site Standard 22.3.3vi(b) requires significant amendment and certainly should not refer to “land adjacent to” a Statutory Acknowledgement Area.

Mr Wells noted that Assessment Matter 22.4ix relates to Cleanfill Facilities and Cleanfill Material. He considered that the assessment matters need to be more “assessment orientated”. For example Assessment Matter (a) should state “whether the source and type of cleanfill material is suitable” or to like effect. Similarly Assessment Matter (f) should state “whether the use of legal instruments such as a bond to ensure work is completed is necessary or appropriate” or to like effect.

Mr Wells also noted in this context that the general use of cleanfill material falls within the definition of Earthworks; whereas Cleanfill Facilities (being an alternative to landfill) do not.

Mr Wells noted that Rule 15.2.20.2 as presented on page 12:61 of notified PC 49 provides for Bulk Earthworks (defined as 50,000m<sup>3</sup> +) associated with any subdivision to be a Discretionary Activity. Mr Wells noted that 50,000m<sup>3</sup> is a lot of earthworks particularly on flat land; but that this rule will be triggered on steep sites which are common in Queenstown. In such circumstances a full discretionary activity consent will be required and this will create uncertainty.

Mr Wells was of the opinion that the initial decision to zone land is the point at which it is decided whether land is to be urbanised. In these circumstances he questioned whether a Discretionary Activity consent with respect to bulk earthworks associated with subdivision is appropriate.

Mr Wells also cautioned that unanticipated outcomes may result. For example subdivision could be staged to avoid triggering the proposed Rule 15.2.20.2. The construction of building platforms could also be deferred to avoid triggering the rule. Mr Wells considered that it would be better for all earthworks (including for building platforms) to be undertaken as part of the subdivision.

Mr Wells’s first preference is for Rule 15.2.20.2 to be removed from PC 49. As an alternative a site subdivision standard could be used instead to the effect that earthworks that breach 50,000m<sup>3</sup> would be a discretionary (restricted) activity; with matters of discretion clearly being stated to limit the scope of decision making. Mr Wells considered that if the 50,000m<sup>3</sup> threshold was breached for land use activity, that this should be a discretionary activity.

Mr Wells supported Rule 22.3.1ii(a)(i) which confirms that earthworks approved as part of a subdivision consented under Rule 15.2.20 are exempt the earthworks rules contained in Section 22.

Mr Wells noted that PC 49 contains Definitions which duplicate those contained in legislation. Mr Wells expressed a clear preference for cross referencing to statutory definitions rather than reproducing these in PC 49. Such an approach will reduce the length of the plan provisions and recognises the fact that legislation can change. This avoids a situation where a Definition contained in the District Plan is different to that contained in the statute.

Mr Wells noted that there may be some instances where the proposed earthworks rules in PC 49 should not be applied on the basis that the matter is being addressed through other existing provisions.

On the afternoon of the hearing on 3 December 2014 Mr Wells returned to the hearing and presented a written statement of Supplementary Evidence. Mr Wells confirmed that the submission by John Edmonds & Associates Limited (being 49/32) at paragraph 9 provides the basis for exempting those zones where rules already address earthworks. Mr Wells also confirmed that he had undertaken an [albeit brief] review to identify where he believed an exemption from the proposed Chapter 22 rules contained in PC 49 should apply. He noted that with respect to resource consents for buildings the following zones require earthworks to be a matter considered for buildings:

- The Rural General Zone [which, it would seem to Mr Wells, is proposed to be exempted in the provisions recommended in the section 42A report]
- Gibbston Character Zone
- Rural Living Areas (being the Rural Residential and Rural lifestyle Zones)
- Rural Visitor Zone
- Penrith Park Zone
- Bendemeer Special Zone
- Quail Rise Zone
- Meadow Park Zone
- Frankton Flats Zone

Mr Wells noted that for all of the above, except the Frankton Flats Zone, buildings are controlled activities with a matter of control being earthworks. Mr Wells noted that in the Frankton Flats Zone buildings are a limited discretionary activity with earthworks being amongst the matters for which discretion is retained.

Mr Wells also considered that two additional exemptions should be considered.

- The Hydro Generation Zone – with respect to rules regarding ‘existing Hydro Generation Activities’
- The Mount Cardrona Zone – which has additional rules controlling earthworks which Mr Wells observed do not appear to be proposed to be deleted. Mr Wells considered that it would seem reasonable to also include the Mount Cardrona Zone as an exemption in Section 22 in PC 49.

## 7.2.2 Glen Dene Ltd

**Mr Richard Burdon** farms the 6,000 hectare Glen Dene property that is located between Lake Hawea and Lake Wanaka.

Mr Burdon addressed the contents of the submission by Glen Dene Ltd (49/29). He emphasised that the farming sector is a significant economic driver in the District and he expressed concern that the District Plan seems to concentrate almost exclusively on

landscape considerations and ignores the need for communities to provide for their economic wellbeing. Mr Burdon emphasised that changes to the District Plan need to seek to regulate effects rather than land use.

Mr Burdon raised wide ranging issues with respect to whether consent fees should be waived for farmers who wish to apply for a farm dwelling or earthworks consent in an ONL; albeit that this falls outside the role of the Commission which is simply to assess PC 49 and the submissions lodged in response to it. Mr Burdon also raised issues with respect to the classification of "landscape zones" which either relate to the forthcoming District Plan Review or which relate to the assessment matters contained in the Operative District Plan. Again in either instance the matters raised fall beyond the Commission's role.

Mr Burdon noted that a significant proportion of farming properties fall within an ONL. While the purpose of PC 49 is to consolidate and simplify the requirements around earthworks in the District Plan; Mr Burdon noted that PC 49 is more restrictive with respect to the volume of earthworks permitted in the ONL [limited to 200m<sup>3</sup> in Tier 2]. Mr Burdon emphasised that under the operative provisions of the District Plan earthworks within an ONL are permitted up to 300m<sup>3</sup>; with earthworks between 300m<sup>3</sup> and 1,000m<sup>3</sup> being a controlled activity; and above 1,000m<sup>3</sup> being a restricted discretionary activity. Mr Burdon also noted that the operative rules provide for resource consents for earthworks to not be notified unless special circumstances exist. Mr Burdon contrasted the operative provisions against PC 49 which proposes that any earthworks greater than 200m<sup>3</sup> be a [restricted] discretionary activity; with the non-notification provision no longer applying. Mr Burdon considered this to be contrary to the publicised aims of PC 49.

Mr Burdon emphasised that for larger properties larger volumes of earthworks can be absorbed. He considered that a sliding scale should be used that recognises the difference in scale and the ability to mitigate effects within larger sites. Mr Burdon also expressed concern that the objectives, policies and assessment matters contained in PC 49 are more complex and detailed than the current provisions. He noted that when assessing earthworks some 27 policies need to be assessed in terms of PC 49 whereas 12 policies are currently in place.

Mr Burdon considered that locating earthworks provisions in a separate chapter of the District Plan will make it more difficult to find the provisions that apply in the context of each zone. He considered that retaining relevant provisions within each zone does not create complexity; but makes it easier to understand what can and cannot be done on the site in question. Mr Burdon emphasised that the number of pages used in the District Plan is not a measure of its complexity or difficulty to use; and that the goal should not necessarily be to reduce the number of pages, but to simplify interpretation of the Plan. He noted in this context that the District Plan is now used on line and that this will be more and more common; reducing any issues with respect to the length of the Plan.

Mr Burdon considered that the Council should withdraw PC 49 and undertake consultation to determine how best to achieve the purpose of the Act. In the event that PC 49 is to proceed Mr Burdon considered that the provisions should be amended to:

- Reduce the number and complexity of objectives and policies; remove repetition; and remove those policy provisions that are not necessary.
- Reduce the number of assessment matters.
- Include earthworks provisions within each zone, as is currently the case.

Mr Burdon considered that earthworks for the formation of farm tracks should be a permitted activity. He supported the exemption for the maintenance of tracks; but considered that this should be taken further and extended to include the formation of new

farm tracks across all landscape categories if the property is being managed for farming purposes.

Mr Burdon advised that the best time to construct a farm track is late spring/summer/early autumn; but that the long lead times required to obtain the necessary landscape reports to support an application for a resource consent creates difficulties in constructing farm tracks at the optimum time.

Mr Burdon noted that farm tracks are becoming subject to greater demands for walking and mountain biking and therefore have benefits beyond farming purposes. Mr Burdon also noted the greater complexity and difficulty obtaining consents with respect to burning and vegetation clearance; and that the construction of new farm tracks is a better solution for achieving access. As a consequence there is a greater tendency to build farm tracks than before.

### 7.2.3 Te Anau Developments Ltd

**Ms Fiona Black** advised that Te Anau Developments Ltd (49/54) is a wholly owned subsidiary of Real Journeys Limited which is the largest tourism operator in Otago and Southland. In 2013 Te Anau Developments Ltd purchased 155 hectares of land at Walter Peak that it had leased since 1991. The provisions of PC 49 that are relevant to the Walter Peak land (where the 'TSS Earnslaw' visits attractions operated by Real Journeys Ltd) are of concern to the submitter. Ms Black also advised that because Cardrona Alpine Resort is also a wholly owned subsidiary of Real Journeys; the provisions of PC 49 which apply to Ski Area Sub- Zones are also of concern to the submitter.

The Rural Visitor Zone applies to land at Walter Peak. Ms Black asserted that the earthworks provisions in the District Plan should be less restrictive in Rural Visitor Zones given the economic importance of tourism activities to the District. She considered that Objective 4 in Section 22 as introduced by PC 49 should also apply to Rural Visitor Zones. Given that the land at Walter Peak is effectively managed by the submitter as a small farm; the earthworks provisions should enable the efficient undertaking of farming activities on this land. She also noted that the submitter is intending to develop the Walter Peak property further by improving farming infrastructure and constructing cycling and walking tracks to improve the recreation opportunities at the site.

The section 42A report had recommended that Objective 4 refer to enabling earthworks "in rural areas". Ms Black did not consider that such reference was wide enough to include activities in the Rural Visitor Zone. Accordingly she considered that specific reference to the Rural Visitor Zone is required in Objective 4.

Ms Black referred to the proviso contained in the exemption for earthworks associated with the maintenance of farm tracks etc in Rule 22.3.2.1(b)(i). That proviso states that:

*"... provided that the maintenance work results in less than a 10% increase in exposed surface area of that feature in any 10 year period."*

Ms Black noted that tracks can be quite featureless and accordingly that it would be virtually impossible to ensure that the maintenance work results in less than a 10% increase in any ten year period. She also considered that the ten year period is unworkable given staff changes and loss of institutional knowledge which occurs on farm properties. Ms Black submitted for the submitter that the period be reduced from 10 years to 3 years in Rule 22.3.2.1(b)(i).

Ms Black acknowledged the exemption for certain earthworks in Ski Area Sub-Zones as contained in Rule 22.3.2.1(c)(i). Notwithstanding this and due to the regional economic importance of the Otago ski industry the submitter is opposed to any dilution of the current exemption which applies to all earthworks within a Ski Area Sub-Zone [as contained in Site Standard 5.3.5.1viii of the Operative District Plan]. Ms Black noted that it is unclear whether the current exemption in PC 49 is broad enough to encompass all the earthworks activities undertaken during the operation of modern ski-fields, such as the installation and maintenance of infrastructure associated with snow making.

Ms Black confirmed that the submitter supports Rule 22.3.2.6(a)(iv) which confirms that an application for Earthworks and Bulk Earthworks in Ski Area Sub-Zones is not to be notified or limited notified.

Ms Black also considered that it would be impracticable to comply with Site Standard 22.3.3v which relates to waterbodies in the context of developing snow making facilities in the Ski Area Sub-Zones. Such work involves the creation of reservoirs and the diversion of streams. Ms Black also assumed that the site standards contained in Site Standard 22.3.3v are aimed at protecting natural or significant waterbodies; and not waterbodies created for the purpose of snow making. She considered that snow making activities in the Ski Area Sub-Zones should be exempt from Site Standard 22.3.3v.

Ms Black referred to Site Standard 22.3.3i and Table 22.1 which limit the maximum volume of earthworks. She considered that Rural Visitor Zones should be included in the same tier as the Rural General Zone [ie. Tier 6 not Tier 4].

Ms Black also referred to the Site Standard relating to environmental protection measures being Site Standard 22.3.3iv(a) and (b). Ms Black considered that the plan provides insufficient guidance as to what constitutes "effective" sediment, erosion and dust control measures. She also questioned how landowners are to manage earthworks when an unforecasted downpour occurs and strong winds come up, resulting in unanticipated run-off and dust clouds, respectively.

Ms Black also referred to Site Standard 22.3.3v which relates to waterbodies. Ms Black considered that the District Plan needs to allow for remedial defence earthworks to ensure that property and structures can be protected from damage during extreme weather events. She noted for instance that large areas of scree and boulders that are brought down by flood events are located above the Colonels Homestead at Walter Peak; and that the submitter needs to undertake remedial works to ensure rocks and water do not damage the Colonels Homestead, generator shed and other structures on the property. She advised that the submitter needs to construct rock culverts, rock armouring and to deepen streambeds to divert the scree, water and rocks away from the structures on its property. The ability to undertake such works at short notice will become even more essential as in the near future the submitter intends to start clearing wilding pines from the Beach Bay Reserve at Walter Peak; and this will remove most of the trees that have afforded protection to the Colonels Homestead in the past. The earthworks concerned are likely to exceed the 20m<sup>3</sup> in volume and the 7 metre setback from the bed of any waterbody specified in Site Standard 22.3.3v(a). Ms Black considered that failure or delays to undertake such works would be catastrophic for Real Journeys's operation at Walter Peak.

Ms Black noted that the Regional Plan : Water for Otago provides, as a permitted activity, for a person to alter or reconstruct any defence against water, other than on the bed of any lake or river, provided there is no permanent change to the scale, nature or function of the defence against water. The submitter contends that it is unreasonable for the QLDC to require resource consent for such activity when the ORC does not; because the Regional

Council recognises that defences against water are important in Otago as they mitigate flood and erosion hazards.

The Commission notes in the context of unforeseen emergencies that section 18 of the Resource Management Act 1991 is relevant in the event of prosecution. It appears that such a defence would be available in the event that works had to be undertaken by the submitter in an emergency situation. The Commission also notes the potential for the submitter to apply for and obtain a generic land use consent to authorise emergency works which may be required at short notice in the circumstances outlined by Ms Black.

#### **7.2.4 Remarkables Park Ltd, Shotover Park Ltd, Remarkables Stud Farm Ltd, Remarkables Country Ltd (formerly QTN Farm Ltd), Coronet Estates Ltd, Wakatipu Retreat Ltd, Malaghans Park Ltd & Arrowtown Downs Ltd**

**Mr Brian Fitzpatrick** has 10 years direct experience in resource management in the Queenstown Lakes District including various roles with Council related entities. Mr Fitzpatrick is currently General Manager Development with Remarkables Park Ltd; and he appeared in support of the submissions by Remarkables Park Ltd (49/50) and associated companies as listed above which had made submissions.

Mr Fitzpatrick presented evidence which addressed issues common to all of the submitter companies; and which addressed those issues specific to individual submitter companies.

##### **Issues Common to All Submitter Companies**

Mr Fitzpatrick opposed reference to “indigenous vegetation” in the definition of Earthworks contained in PC 49 as notified; and supported Mr Pickard’s recommendation that a generic reference to vegetation (both indigenous and non-indigenous) be inserted instead.

Mr Fitzpatrick advised that the submitters consider that the consultation process for PC 49 was inadequate and that a much better plan change could have been crafted if at least some relevant key developers and landowners and sector groups representing farmers and others who own high country land had been consulted. He also noted that some of the key changes (such as lowering the thresholds for earthworks on ONL and ONF and making it more difficult to obtain consents in certain zones including the Remarkables Park Zone), were not foreshadowed in the consultation document. Mr Fitzpatrick also questioned whether the consultation that did occur provides a basis for some of the changes that are now proposed in PC 49.

The Commission acknowledges that Mr Fitzpatrick tabled a document entitled “Managing Earthworks Issues and Options”; comments in response to which were to be received by the Council by 24 August 2012. The Commission notes that this document appears to have been released in the context of the District Plan Review rather than being a specific consultation document in the context of PC 49.

Mr Fitzpatrick acknowledged that the original wording of the objectives and policies in PC 49 was of concern to the submitter companies; such concern relating to the focus on avoidance of effects rather than remediation or mitigation. Mr Fitzpatrick acknowledged that Mr Pickard’s section 42A report has partially recognised this issue and made various changes to Objective 1 which the submitters support.

Mr Fitzpatrick raised specific concerns with various objectives and policies as follows:

- Policy 1.4 - Needs to have a focus on mitigation and remediation.
- Objective 2 - Being to “Protect rural landscapes and visual amenity areas...” Is not balanced and is far too strong.
- Policy 2.2 - Makes no distinction between temporary effects and permanent effects and should be amended to:
  - ‘2.1 Avoid, remedy or mitigate the effects of earthworks from inappropriate development on Outstanding Natural Features, Outstanding Natural Landscapes and Heritage Landscapes.’*
  - (Emphasis Added)
- Policy 2.2 - Gives natural landforms the same status as prominent slopes and ridgelines and if it is to be retained, it should be amended to:
  - ‘2.2 Avoid, remedy or mitigate adverse visual effects of earthworks on visually prominent slopes, natural landforms [if it is to be retained] and ridgelines, where practicable.’*
  - (Emphasis Added)

#### **Shotover Park Limited (49/52)**

Mr Fitzpatrick explained that Shotover Park Limited is the developer of the Glenda Drive industrial subdivision; and is the owner of land between Glenda Drive and the Eastern Arterial Road which has subdivision consent for industrial/commercial lots, such subdivision earthworks currently being underway.

Mr Fitzpatrick acknowledged that Mr Pickard’s section 42A report had confirmed that Activity Areas E1 and E2 are included in Tier 5 of Table 22.1; and that the requirement for a resource consent has accordingly been increased from 100m<sup>3</sup> to 500m<sup>3</sup>. This provision is supported by the submitter.

#### **Coronet Estates Limited, Malaghans Park Limited, Wakatipu Retreat Limited & Arrowtown Downs Limited (49/15)**

Mr Fitzpatrick advised that these companies together own 80 hectares of farmland in four adjoining titles on the north side of Malaghans Road. The land is zoned Rural General and a small strip along the northern boundaries has an ONL classification.

The submitter companies are not entirely sure whether their land is covered by Tier 6 in Table 22.1 as a small portion of each site is ONL. If Tier 6 does apply to work on the non-ONL parts of the sites, the submitter companies support the change as it allows up to 1000m<sup>3</sup> of earthworks to be undertaken without the need to obtain a resource consent.

Mr Fitzpatrick also acknowledged the Tier 6A category which had been introduced to Table 22.1 in the section 42A report and which provides for land in the Rural General Zone of 100 hectares or more (which is not ONL etc) to have a maximum earthworks volume of 50,000m<sup>3</sup>. Mr Fitzpatrick advised that the submitters promote an additional Tier which would enable maximum earthworks of 20,000m<sup>3</sup> on sites between 50 hectares and 100 hectares, subject to the same ownership and landscape category qualifications as currently contained in Table 22.1 for Tier 6A.

#### **Remarkables Stud Farm Ltd (49/17) and Remarkable Country Ltd (formerly QTN Farm Ltd) (49/16)**

Mr Fitzpatrick advised that Remarkables Stud Farm Ltd owns 199 hectares of land on The Remarkables being land above and to the north of the first set of zig zags on the ski-field road. Remarkables Country Ltd (formerly QTN Farm Ltd) owns 1825 hectares of land rising from the true right bank of the Kawarau River and lying across the northern face of The Remarkables – this land was previously known as Cone Peak Station.

Mr Fitzpatrick noted that both areas are classified as ONL-WB (Wakatipu Basin). Under PC 49 the maximum volume of earthworks that can be undertaken without a resource consent is 200m<sup>3</sup>; and Mr Fitzpatrick advised that this is not an acceptable outcome. He noted that 136.7 hectares of river flats are present on the Remarkables Country Ltd property and advised that earthworks on this land would generally not be visible other than from an elevated position.

Mr Fitzpatrick again acknowledged that a new Tier 6A was proposed in Table 22.1 which would enable 50,000m<sup>3</sup> of earthworks to be permitted on Rural General Zone sites where there is contiguous land holdings in one ownership of 100 hectares or more. He noted however that Tier 6A does not apply to ONL sites. The submitter companies promote that a similar provision needs to be introduced to allow greater volumes of earthworks on larger ONL sites – especially where, as in this instance, the site has a very significant area of flat land lying below the base of the mountain landscape. Mr Fitzpatrick noted that an alternative to writing a general provision that applies to all such ONL land would be to specifically identify the submitters site and the volume of earthworks that can be undertaken without a requirement for a resource consent.

Mr Fitzpatrick advised that Remarkables Country Ltd recognises the significant recreational potential of its land; and wishes to create recreational tracks on this land as well as constructing additional farm tracks. Mr Fitzpatrick noted that the provisions of PC 49 allow maintenance of tracks [Rule 22.3.2.1(b)(i)] but do not facilitate the construction of new recreational tracks or farm tracks. Mr Fitzpatrick considered that this shortcoming needs to be addressed in the final version of PC 49.

The submitter companies are very concerned that PC 49 appears to have given no consideration to a farming perspective. Mr Fitzpatrick noted that the great majority of the Queenstown Lakes District is rural land but that the total number of owners is quite small. In these circumstances he considered that it is easy to ignore their voice (which he considers has happened here) and yet it is quite wrong to do so when much of the tourist attraction of the District is reliant on the rural areas being well managed. Mr Fitzpatrick considered that the earthworks provisions should be designed in a way which makes it easier and more affordable for landowners and farmers to manage their rural land and to undertake a farming activity – not harder. He considered that rules that make the management of rural land too hard for the current landowners will result in the community itself having to bear the cost of weed removal or dealing with wilding pine infestation or suffer the adverse environmental and economic effects of that work not being done.

Mr Fitzpatrick noted that the only two “problem earthworks” identified in the Council documentation as having created long term adverse environmental effects are both in urban areas (being at the Five Mile and Kawarau Falls developments).

#### **Remarkables Park Ltd (49/50)**

Mr Fitzpatrick emphasised that Remarkables Park Ltd’s position is that the earthworks provisions in Section 12.10 of the Operative District Plan have worked effectively and efficiently for over a decade and that there is no need, nor any sound resource management reason, to change them. The submitter’s strong preference is to leave the earthworks provisions for Remarkables Park Zone unchanged and to leave them in Section 12.10 of the District Plan. Mr Fitzpatrick noted that PC 49 proposed neither action.

Mr Fitzpatrick noted that in relation to the best location for the Remarkables Park Zone (RPZ) earthworks provisions those provisions occupy only 1½ pages of text in the District Plan; are different from those in other sections of the District Plan and consolidation will therefore not “remove duplication”; and that the amount of printed space the RPZ

earthworks provisions occupy becomes increasingly less of a consideration as use of the digital version of the District Plan grows.

Mr Fitzpatrick noted that the RPZ provisions strongly encourage applications for earthworks consents to be made in conjunction with the applications for resource consents for the buildings or other activities to which they relate. Given that the RPZ earthworks provisions are referred to in the preparation of almost every RPZ resource consent that is applied for; it is much simpler and more convenient for applicants to have all the relevant provisions in one place in the District Plan. Similarly it would be more convenient for processing planners to have all relevant provisions in one place.

Mr Fitzpatrick noted that the purpose of the plan change is stated as being “to simplify and streamline the earthworks provisions within the District Plan”. He advised that as a regular user of the District Plan and likely the only regular user of the RPZ section, Remarkables Park Ltd is confident that it would be far simpler if the earthworks provisions that relate to the RPZ be left in their current location (ie. in Section 12.10 of the District Plan).

Mr Fitzpatrick considered that the RPZ is a true exception; as these provisions are unlike any of the other Special Zones in the District Plan, with the only similar Special Zone being Three Parks. He noted that most of the Special Zones are surrounded by Rural General land and that the type of development allowed within them is generally limited. He contrasted this to the RPZ which is a large (150 hectare) largely flat urban zone where the entire site has been zoned for varying forms of development. He also noted, amongst other matters, that earthworks are anticipated in every part of the RPZ. As a true exception Mr Fitzpatrick considered that there are good resource management reasons why the RPZ has its own earthworks provisions and that there are good reasons to keep them simple and to keep them located in the RPZ section of the District Plan.

Mr Fitzpatrick noted that there is merit in consolidating earthworks provisions from various zones where they are the same, or should be the same. As a consequence the submitter is not arguing that all of the existing earthworks provisions should be left in their existing sections of the District Plan. Rather the submitters concern is specifically focussed on retaining the earthworks provisions in the RPZ in Sections 12.10 and 12.11 of the District Plan as there are good reasons for doing so (and no good reasons for not doing so).

Mr Fitzpatrick suggested that if the RPZ earthworks provisions are to remain in their current location in the District Plan then a statement can be included in Rule 22.3.1 to the effect that “Section 22 does not apply to the Remarkables Park Special Zone – refer to the earthworks provisions in Sections 12.10 and 12.11” or to like effect.

Mr Fitzpatrick emphasised that neither Remarkables Park Limited nor any other party had made a submission requesting a change to any of the earthworks provisions of the RPZ; and that the submitter was not seeking any liberalisation of the existing rules that apply to the RPZ. He also noted that there is nothing in the background papers appended to the Section 32 Analysis that indicate that there had been any problems with the existing RPZ provisions and he noted that the Section 32 Analysis contained a statement that the provisions (being the earthworks provisions of the RPZ) have been efficient and effective and that they should be retained.

While Mr Fitzpatrick strongly supported the RPZ earthworks provisions being retained intact and in their current location, he provided comment with respect to the provisions of PC 49 that relate to the RPZ. He observed that while it appears that an attempt has been made to leave some of the RPZ earthworks provisions unchanged; this does not go far enough. He provided specific comment on the PC 49 provisions (as recommended to be amended in terms of the section 42A report) as follows:

- The exemption for earthworks approved as part of any building granted a resource consent in the RPZ as contained in Rule 22.3.2.1(b)(iii) is accepted and supported.
- Rule 22.3.2.6(a)(iii) that relates to notification should be amended to be consistent with Rule 22.3.2.6(a)(iv) to provide for: “Earthworks and Bulk Earthworks in the Remarkables Park Zone”. Such an amendment would be acceptable to the submitter.
- Tier 2 – Tier 5 (inclusive) relate to the RPZ and apply different maximum total volumes in the RPZ. No justification has been provided for these changes and they should be removed.
- Tier 6 in Table 22.1 applies a maximum volume of 1000m<sup>3</sup> for the Rural General Zone (with stated exceptions); and Tier 6A provides a maximum volume of 50,000m<sup>3</sup> in the Rural General Zone (with exceptions) on contiguous landholdings in one ownership of 100 hectares or more. If volume limits are to be applied to the RPZ they should, at a minimum, match the highest limits placed on any other zone.
- Rule 22.3.2.4 describes earthworks over 50,000m<sup>3</sup> as “Bulk Earthworks”, being a full discretionary activity in terms of that rule. No attempt has been made to justify this rule in the context of RPZ and the rule should not be applied to the RPZ. There is no justification not to grant the same exemptions to earthworks in the RPZ as apply in the Ski Area Sub-Zones [Rule 22.3.2.1(c)(i)].
- Rule 15.2.20.1 states that earthworks associated with the subdivision in any zone is a controlled activity and this is supported. Rule 15.2.20.2 which provides that bulk earthworks associated with any subdivision be a discretionary activity, is a significant change to the RPZ provisions; and there is no justification for this change in the RPZ.

Mr Fitzpatrick referred to RM 090821 being a subdivision consent in the RPZ which, *inter alia*, granted consent to 930,000m<sup>3</sup> of earthworks. He tabled a plan showing the extent of the approved earthworks and noted that the application was processed on a non-notified basis. Mr Fitzpatrick noted that this was a large earthworks project which was completed in a timely way and from which there were long term environmental benefits, including considerable safety benefits for airport users (as material was provided to the Queenstown Airport Corporation to be used in the extension of the RESA) and in terms of the creation of an important future transport link for Queenstown motorists (being the Eastern Arterial Road); and that there are no long term adverse environmental effects.

Mr Fitzpatrick considered that there had been no assessment relating to the particular characteristics of the RPZ when determining that bulk earthworks should be a discretionary activity in that zone. He considered that the tools being proposed to deal with the adverse effects of “problem earthworks” are very blunt indeed; and have no place in a zone like the RPZ where the existing earthworks rules work effectively and efficiently.

Mr Fitzpatrick considered that applying the discretionary activity regime to bulk earthworks in the RPZ would be contrary to the principles underlying PC 49 which are to provide rules that are generally more permissive than before, and to be enabling; with such provisions being introduced through due process. Mr Fitzpatrick emphasised that from the submitters’ perspective the outcome of PC 49 has not been enabling and that, if implemented in its current form, PC 49 would be restrictive on the submitter and on any rural land with an ONL or ONF classification; albeit that he acknowledged that PC 49 does introduce some benefits for industrial land and land in the Rural General Zone that is not ONL or ONF.

Mr Fitzpatrick reiterated that PC 49 proposes to remove perfectly workable provisions and to replace them with provisions that are significantly more restrictive in the context of the submitters' land.

Mr Fitzpatrick also noted that any changes to the RPZ would be contrary to an agreement made between the Council and Remarkables Park Limited to the effect that the Council would ensure that any District Plan Review process commenced before or during the period from 2013 to 2018 would not affect, compromise or remove any of the existing development opportunities contained within the current operative RPZ. It was explained to the Commission that the "agreement" referred to was a Settlement Deed entered into between Shotover Park Ltd, Remarkables Park Ltd and the Council in February 2014 in the context of resolving a number of outstanding issues relating to Plan Change 19. The Commission observes that this agreement appears to relate to the District Plan Review rather than to PC 49.

**7.2.5 Blackmans Creek Holdings No. 1LP, Coronet View Holdings Ltd, Glencoe Land Development Company Ltd, Glencoe Station Ltd, Jacks Point Residents & Owners Association Incorporated, Lake's Edge Developments Ltd, Mt Cardrona Station Ltd, Mt Christina Ltd, Parkins Bay Preserve Ltd, Pisidia Holdings Ltd, Queenstown Corporation Ltd, Real Journeys Ltd, Robert Stewart, Treble Cone Investments Ltd and Shotover Country Ltd.**

**Mr Warwick Goldsmith**

**Mr Hamish McCrostie**

**Mr Warwick Goldsmith**, counsel, appeared for the 15 submitters listed above. He submitted that the separation of earthworks activities from other activities in the District Plan is regrettable, and is arguably inappropriate. Mr Goldsmith noted that most earthworks are ancillary to other activities and should be considered as part of those other activities (being the current approach in the District Plan). Mr Goldsmith also submitted that the separate consideration of earthworks immediately prior to a full District Plan Review is also regrettable, and arguably inappropriate. This is because PC 49 "unpicks" one essential aspect of the current District Plan without properly considering the drafting consequences.

Mr Goldsmith acknowledged that the thrust of PC 49 is to go down the track of a separate earthworks section being Section 22 of the District Plan. He considered that this approach can be made to work with various changes; and he acknowledged that Mr Pickard's section 42A report had taken on board 70-80 percent of the concerns raised in the submissions. Mr Goldsmith's submissions at the hearing focussed on those issues which he considered had not been addressed to the submitters' satisfaction.

Mr Goldsmith emphasised that the forthcoming review of the District Plan has no relevance to PC 49. This is because PC 49 is a change to the Operative District Plan and as there can be no certainty with respect to the contents of the District Plan Review.

Mr Goldsmith noted that the current District Plan provisions contain a complete exemption from consent requirements for earthworks within Ski Area Sub-Zones. He considered that given the limited number of Ski Area Sub-Zones, their location, and the activities which will occur within them, that exemption is appropriate.

Mr Goldsmith noted that while the section 42A report recommended that amendments provide for the general exemption of ski-field operations; that in fact the existing general exemption is not reinstated. He considered that what is proposed is a partial exemption

which leaves some of the new restrictions in place, creates significant uncertainty and potential costs, and also results in some significant drafting difficulties. He referred to the relevant provisions as presented in Appendix 1 to the section 42A report. Mr Goldsmith made detailed submissions which highlighted the difficulties with these provisions and the uncertainty which would be a consequence of adopting them.

Mr Goldsmith submitted that all of the issues discussed by him can be remedied by reinstating the current exemption for earthworks in Ski Area Sub-Zones.

**Mr Hamish McCrostie** is the manager of Ski Operations for Darby Partners that operates the Treble Cone Ski-Field. Mr McCrostie was previously general manager of the Remarkables Ski-Field and Coronet Peak Ski-Field; and has been involved in ski-field management for over 30 years.

Mr McCrostie emphasised the economic benefit to the District associated with the ski-fields. Ski-fields involve significant earthworks including snow making reservoirs which have up to a 80 million litre capacity. Mr McCrostie advised that a consent from the ORC is required for these; and he is concerned that PC 49 will bring an additional layer of regulation. Reservoirs involve significant earthworks which far exceed 25,000m<sup>3</sup> of cut and 25,000m<sup>3</sup> of fill; and therefore exceed a total volume of 50,000m<sup>3</sup>.

Mr McCrostie advised that land use consents are sometimes required from the QLDC with respect to the clearance of indigenous vegetation. Ski-fields have a vegetation management protocol which ensures that tussocks are stockpiled, kept wet and then replanted.

Mr McCrostie noted that while dust can sometimes occur with respect to stockpiling of topsoil; there are no near neighbours to ski-fields. He also emphasised that any dust effects are temporary.

Mr McCrostie also noted that earthworks are associated with establishing ski trails, mountain bike trails, walking trails, building platforms and lift areas.

Mr McCrostie advised that to his knowledge no complaints have been made to the QLDC with respect to earthworks at ski-fields.

Mr Goldsmith emphasised that while the submitters seek a full exemption for earthworks in the Ski Area Sub-Zones that an alternative would be to further adjust the provisions recommended in the section 42A report. This would involve broader wording of the exemptions currently recommended. Specific amendments to this effect are detailed in paragraph 18 of Mr Goldsmith's written submission.

Mr Goldsmith acknowledged that the recommended objectives and policies contained in the section 42A report represent a significant improvement on notified PC 49; but underlying concerns remain with respect to landscape and visual amenity values.

Mr Goldsmith referred to the District Wide provisions contained in Section 4.2 of the Operative District Plan. He emphasised that a lot of time and effort had gone into preparing these provisions and that, for example, the relevant objectives and policies presented in Section 5 of the District Plan refer to Part 4 matters. Mr Goldsmith considered that a cross reference to Section 4.2 should be included in Objective 2 in Section 22 as introduced by PC 49. Mr Goldsmith also considered that Objective 2 could be redrafted on the basis of the Objective contained in Clause 4.11.3 on page 4:61 of the Operative District Plan.

Mr Goldsmith expressed concern at proposed Policy 1.4 as presented in the version of Section 22 attached to the section 42A report. This states:

*“1.4 Avoid, where practicable, the long term adverse effects of unfinished projects.”*

Mr Goldsmith noted that the concern that the policy is intended to address appears to relate to the “Hendos Hole” at the Five Mile development. Mr Goldsmith noted that broader concerns with respect to the use of the term “avoid” rather than “avoid, remedy or mitigate” have been largely addressed in the section 42A report; but that this concern remains with respect to Policy 1.4. The use of the phrase “avoid or mitigate...” would be appropriate.

Mr Goldsmith also noted that the Assessment Matters contained in Part 5 of the Operative District Plan would continue to apply to development in the Rural General Zone. Accordingly such development would be subject to the assessment matters contained in Part 5 and also the assessment matters specific to earthworks provided for in Section 22 in PC 49. He also acknowledged that to apply Section 22 Assessment Matters the landscape categorisation process provided for in the Part 5 Assessment Matters would need to be undertaken in the first instance.

Mr Goldsmith acknowledged that Special Zones contained in the District Plan have been introduced via separate plan change [or variation] processes which have involved very detailed analysis of the provisions under consideration. The rules for the Special Zones have been tailored to the needs of the zone concerned. Mr Goldsmith’s submissions were made specifically in the context of the Jacks Point Zone, the Mt Cardrona Station Special Zone and the Shotover Country Special Zone being affected Special Zones which his clients have an interest in. He noted that other Special Zones may also raise similar concerns albeit that he has not examined those provisions in the context of PC 49.

Mr Goldsmith noted that the earthworks monitoring report, the Section 32 Analysis and the section 42A report do not identify any concerns about the existing rules and/or identify a problem which justifies removal or amendment of those existing rules and/or address the consequences of removing or amending those specific rules. He noted that in all cases the relevant rules are simply removed or amended because of what appears to be the alleged advantage of a generic approach compared to the carefully tailored approach which currently exists with respect to the Special Zones. Mr Goldsmith also noted in this context that while a generic approach is favoured in the relevant reports over a tailored approach; PC 49 in Rule 22.3.2.1(b)(iii) retains a rule specific to the Remarkables Park Zone. Mr Goldsmith noted that no reason is given for allowing that zone-specific rule to remain while removing other zone-specific rules.

Mr Goldsmith noted that concerns with respect to the Jacks Point Zone are detailed in part 8 of the submission by Coronet View Holdings Limited (49/2). Mr Goldsmith contrasted the existing specific provisions for earthworks in the Jacks Point Zone with the generic provisions provided for in Table 22.1 and other provisions in PC 49. Various standards apply due to the “pod” approach to development provided for in the Structure Plan that applies to the Jacks Point Zone.

Mr Goldsmith noted that introducing a generic approach may have unexpected consequences. He noted for example that bulk earthworks up to 50,000m<sup>3</sup> would be permitted within the Rural General Zone at Jacks Point; whereas the construction of a walking trail involving over 100m<sup>3</sup> on certain land at Jacks Point would be a fully discretionary activity.

Mr Goldsmith submitted that there is no justification for not retaining the existing rule regime applicable to the Jacks Point Zone.

Detailed concerns with respect to the Mt Cardrona Station Special Zone are contained in part 8 of the submission by Mt Cardrona Station Limited (49/7).

Mr Goldsmith noted that the Mt Cardrona Station Special Zone provides for the future development of land above the existing Cardrona township.

Mr Goldsmith noted that the Mt Cardrona Station Special Zone contains a controlled activity Rule 12.22.3.2iii at page 12-139n of the District Plan. This relates to certain categories of earthworks activities. There is then a subsequent Site Standard being Rule 12.22.5.1xi (on page 12-139s of the District Plan) which is the standard earthworks Site Standard but which, at the beginning, contains an exemption relating to the earlier controlled activity Rule 12.22.3.2iii. Mr Goldsmith noted that PC 49 retains Rule 12.22.3.2iii but then deletes the subsequent exemption rule. He submitted that the consequence is somewhat of a mess.

Mr Goldsmith also submitted that as Rule 12.22.3.2iii is to be retained it is not subject to PC 49; and cannot be amended in the context of PC 49. As a consequence the same earthworks may be subject to both controlled activity and discretionary (restricted) activity rules in different parts of the District Plan if PC 49 proceeds.

Mr Goldsmith advised that the Shotover Country Special Zone is a zone recently created through Plan Change 41 (that was made operative on 27 August 2013). Concerns with respect to the Shotover Country Zone are detailed in the submission by Shotover Country Limited (49/51).

Mr Goldsmith noted that PC 41 required consideration of a very specific issue; being the lowest terrace within the Shotover Country Special Zone that is close to the Shotover River flood plain. The ORC lodged a submission on PC 41 which was resolved through very carefully drafted earthworks rules which addressed the ORC's concerns.

Mr Goldsmith noted that one specific rule that resulted from the carefully negotiated and resolved outcomes of PC 41 has been removed in PC 49. Again he noted that no justification has been advanced for this change in the earthworks monitoring report, the Section 32 Analysis or the section 42A report.

Mr Goldsmith submitted that there is no justification for removal of an exemption which is specific to the Shotover Country Special Zone; and he submitted that this exemption rule should be reinstated. The rule is particularly relevant to Area 1f being the area identified on page 12-332 of the Operative District Plan; the relevant rules being presented on pages 12-304, 12-310, 12-312 and 12-315.

In essence fill is required on Area 1f to raise the area of this land prior to any development occurring. Mr Goldsmith noted that the rule on page 12-305 of the Operative District Plan is deleted by PC 49; and as a consequence bulk earthworks at Shotover Country Limited will be a full discretionary activity. Mr Goldsmith is concerned that the dropping of key provisions will result in significant costs in terms of re-litigation of matters which have previously been settled in the PC 41 process.

Mr Goldsmith reiterated that the zone specific rules that apply to the Special Zones should be retained and not replaced with generic rules as proposed in PC 49. He also emphasised that while he had addressed three specific Special Zones; that there are many other Special Zones provided for in the District Plan where similar issues may well arise if the status quo is changed.

Mr Goldsmith referred to section 9 of the Blackmans Creek Holdings No. 1LP (49/1) submission (and to like submissions) which questioned what the volume trigger control achieves which is not achieved by the height and slope trigger control. Mr Goldsmith considered that the maximum volume controls stated in Table 22.1 will give rise to a significant number of resource consent applications. The submitters request that all PC 49 provisions which impose a earthworks volume trigger for consent purposes or which relate to an earthworks volume trigger control rule or requirement, be deleted; and that possibly a new Site Standard be inserted specifying permissible hours of operation for earthworks activities in specified zones, or within all zones other than the Rural General Zone.

Mr Goldsmith noted that Tier 2 in Table 22.1 provided for a maximum total volume of earthworks of 200m<sup>3</sup> for ONLs and ONFs; whereas Tier 6 provides for a 1000m<sup>3</sup> threshold elsewhere in the Rural General Zone. The submitters contend that the Tier 2 provision is *ultra vires* for the reasons summarised below.

Mr Goldsmith noted that the Operative District Plan does not formally determine the extent and boundaries of ONLs and ONFs. The Landscape Category Maps contained in the District Plan can be, and are, amended from time to time as a result of Environment Court consent decisions; and certain changes can be made at the Council resource consent stage. Mr Goldsmith also provided extracts from a copy of the interim decision of the Environment Court with respect to PC 19 (ENV C93 (2014)) which has determined that the status of an activity must be specified in the District Plan; and cannot be determined through a resource consent process. Based on the above; and as the landscape category lines are boundaries which have or will be determined through a resource consent process, and as the proposed 200m<sup>3</sup> resource consent trigger control (in Table 22.1 of PC 49) is based upon whether or not the relevant land is within an ONL or an ONF; the submitters contend that the proposed trigger control is *ultra vires*.

Mr Goldsmith noted that this problem does not arise under the Operative District Plan as the differentiation between the landscape categories generally only arises in respect of policies and assessment matters; not rules.

The submitters identified, as an alternative, that the operative date of any rules in PC 49 be deferred until a review of the District Plan identifies the ONL/ONF boundaries as part of the District Plan. On reflection Mr Goldsmith did not consider that this was a sound alternative. He considered that all land in the Rural General Zone should be subject to the Tier 6/1000m<sup>3</sup> control or alternatively all earthworks in the Rural General Zone above 300m<sup>3</sup> should be a controlled activity as provided for in the Operative District Plan.

Mr Goldsmith also noted that the most tension in the resource management arena within the District is with respect to landscapes which are identified as visual amenity landscapes (VAL). In these circumstances, and given that there will not be many properties left which exceed 100 hectares, there appears to be little value in maintaining a Tier 6A where up to 50,000m<sup>3</sup> of earthworks are provided for, as recommended in the section 42A report.

Mr Goldsmith's core submission is that reference to the outstanding natural landscapes/outstanding natural features in Table 22.1 does not work.

Mr Goldsmith also noted the anomaly which exists where a Rural Lifestyle Zone or Rural Residential Zone is applied to land in the ONL as occurs on Maps 9 and 25a. The question arises which provision applies ie. either Tier 2 or Tier 4 in Table 22.1.

Mr Goldsmith noted that proposed Rule 22.3.2.4 introduces a new consent requirement requiring full discretionary activity consent for earthworks with a total volume of over

50,000m<sup>3</sup> within one consecutive 12 month period. The submitters contend that this new consent provision is unnecessary and inappropriate as there is no identifiable difference between earthworks involving, say, 40,000m<sup>3</sup> or 60,000m<sup>3</sup>; that the addition of a trigger level of 50,000m<sup>3</sup> and the change in status from restricted discretionary to full discretionary is unjustified; and that the same Site Standards would be relevant in the event that all volume control is deleted, as previously promoted by the submitters.

Mr Goldsmith confirmed that the submitters seek the deletion of Rule 22.3.2.4(b) Bulk Earthworks and all other plan provisions relating to that consent category.

Mr Goldsmith was concerned that full discretionary activity effectively negates the purpose of zoning; and he advised that anecdotal applicants will walk away from a proposal if full discretionary consent is required for earthworks. He considered that everything that is achieved through a full discretionary rule can be achieved via a restricted discretionary resource consent process.

Mr Goldsmith noted that if the concern (to justify full discretionary activity status) relates to the ability to impose a bond; then that concern does not justify a change in status. All that is required is a specific assessment matter, applicable to bulk earthworks, that relates to bonds.

The submitters contend that Rule 22.3.2.6 which relates to non-notification of applications is far too restrictive. Mr Goldsmith noted that a primary objective of PC 49 is to reduce consent compliance costs; and that there is no need to notify the vast majority of earthworks applications because the issues concerned can be adequately dealt with between the consent applicant and the Council, without needing to involve anybody else. Mr Goldsmith submitted that the default starting position should be that all applications for earthworks consents under Section 22 should be dealt with on a non-notified basis (noting that the RMA "special circumstances" provisions for notification are always applicable).

Mr Goldsmith noted that the earthworks monitoring report attached to the Section 32 Analysis recorded that only seven earthworks applications were notified within a two year period, all of which related to quarrying activities. Mr Goldsmith acknowledged that notwithstanding his general suggestion that non-notification should be the default starting position, that limited notification may be appropriate with respect to a breach of Rule 22.3.3ii [Height of cut and fill slope] where the breach relates to cut or fill close to the site boundary. Mr Goldsmith noted that Rule 22.3.2.6(a) and Rule 22.3.2.6(a)(i) could be retained (possibly with amendments); but that Rule 22.3.2.6(a)(ii)-(iv) are not necessary.

Mr Goldsmith raised various issues with respect to minor drafting amendments as detailed in part 13 of the Blackmans Creek Holdings No. 1LP (49/1) submission and in other submissions to like effect. Mr Goldsmith requested that the various issues raised in part 13 of the submissions be considered by the Commission and that appropriate amendments be made to address the concerns raised.

While it is not necessary to discuss each of the many points raised here; it is noted that in some instances the points raised are consistent with matters raised earlier in Mr Goldsmith's submission relating to an exemption for the Ski Area Sub-Zone, an exemption for the existing Special Zones and the deletion of any reference to ONL/ONF from Table 22.1.

It is acknowledged that Mr Goldsmith opposed Site Standard 22.3.3v(c)(i). This stipulates that no earthworks shall penetrate or contaminate any groundwater aquifer. Mr Goldsmith was concerned that the effect of this rule will be to require an additional resource consent (from the QLDC) with respect to a bore which is subject to a consent from the ORC.

It is acknowledged that Mr Goldsmith identified various other minor changes in addition to those identified in the original submissions. The Commission acknowledges that the matters raised by Mr Goldsmith have been of considerable assistance in considering the appropriateness of the wording contained in Section 22, as attached as Appendix 1 to the section 42A report.

Mr Goldsmith concluded by emphasising that PC 49 will reduce resource consents and is therefore largely beneficial. He emphasised that the submitters have no intention to “tip over” PC 49; and instead promote changes to approximately 10% of the recommendations contained in the section 42A report.

## **7.2.6 Cardrona Alpine Resort**

**Mr Warwick Goldsmith**

**Mr Erik Barnes**

**Mr Erik Barnes** appeared with Mr Goldsmith in support of the submission by Cardrona Alpine Resort (49/26). Mr Barnes referred to the contents of that submission.

Mr Barnes noted that the current exclusion of the Ski Area Sub-Zones as contained in the District Plan earthworks rules was adopted to enable the development of ski areas, recognising their importance in contributing to the social and economic well-being of the community. Mr Barnes is concerned that PC 49 dilutes the exemption for ski areas, and this is opposed. The submitter seeks to retain the current operative Ski Area Sub-Zone exemptions in PC 49.

Mr Barnes emphasised that there is a very tight window of opportunity to undertake necessary earthworks in conjunction with the operation of the ski-fields. The Ski Area Sub-Zone exemption anticipates earthworks within the ski areas; and provides for such earthworks to be undertaken. Mr Barnes advised that at the Cardrona Alpine Resort 117,000m<sup>3</sup> of cut is programmed for the 2014/15 summer period. He also noted that with the increased incidence of mountain biking there is a significant growth in summer time operations at the ski-field.

Mr Barnes advised that the lowest snowfall in 10 years was experienced during the 2014 season. This resulted in an increased need for snow making and associated dams. This in turn increases the demand for earthworks at the Ski Area Sub-Zones.

Mr Goldsmith noted that the 117,000m<sup>3</sup> of cut referred to by Mr Barnes provided an equivalent amount of fill material to be spread within the ski-field. This equates to 234,000m<sup>3</sup> of earthworks in total.

Other matters raised in the Cardrona Alpine Resort submission were also addressed by Mr Goldsmith above in the context of the submission by Blackmans Creek Holdings No 1 LP.

## **7.2.7 Roland & Keri Lemaire-Sicre**

**Mrs Keri Lemaire-Sicre**

**Keri Lemaire-Sicre** operates a Pet Lodge at Ladies Mile.

Ms Lemaire-Sicre outlined the experience that she had had with a neighbour who undertook earthworks at the boundary with her property. She was concerned that she had no opportunity to participate in a resource consent process with respect to the construction of a bund at the boundary with her property.

Ms Lemaire-Sicre requested that potential submitters not be disadvantaged compared to the status quo with respect to their opportunity to participate in the resource consent process with respect to earthworks. She considered that the status quo should be maintained with respect to the status of earthworks in the Rural General Zone. It is noted in this context that Tier 6 as contained in Table 22.1 provides for earthworks in the Rural General Zone of up to 1,000m<sup>3</sup> as a permitted activity. This contrasts with Rule 5.3.3.2viii of the Operative District Plan which provides for earthworks between 300m<sup>3</sup> and 1000m<sup>3</sup> as a controlled activity. The submitters have opposed the 1000m<sup>3</sup> threshold now proposed in Tier 6 in Table 22.1.

### **7.2.8 BP Oil NZ Ltd, Mobil Oil NZ Ltd and Z Energy Ltd (the Oil Companies)**

A statement prepared on behalf of the Oil Companies (submitter 49/55) by **Mr Mark Laurensen** Senior Planner with Burton Planning Consultants Limited was tabled at the hearing. The statement was dated 1 December 2014 and focussed on those matters addressed in the section 42A report which the submitters are concerned could inappropriately restrict or limit the existing and future operations of the Oil Companies. In summary the statement for the Oil Companies promoted that provisions recommended in the section 42A report be amended or adopted as follows:

- Adopt Objective 1, subject to a minor amendment.
- Adopt Policy 1.2, subject to a minor amendment.
- Adopt Policies 1.1 and 1.3 as proposed.
- Adopt Objectives 3 and 6 as proposed.
- Amend Policies 3.1 and 3.2 to specify that works should not cause adverse effects.
- Adopt Policy 6.1 as proposed, subject to the inclusion of the words “or mitigate”.
- Adopt Policies 7.1 and 7.2 as proposed.
- Adopt Rules 22.3.1v and 22.3.2.1(b)(ii) as proposed.

### **7.2.9 Patrick Kennedy**

An email dated 2 December 2014 from **Mr Patrick Kennedy** was tabled at the hearing in support of his submission (49/34).

Mr Kennedy referred to his experience with respect to a development at 37-41 Lakeside Road, Wanaka adjacent to his property. Mr Kennedy believes that in the case of significant excavations a fully independent engineering report of affected properties should be obtained at the expense of those carrying out the earthworks and the report(s) made available to the property owner(s) and QLDC. Mr Kennedy also considered that the developer should bear the costs of any further post-earthworks report requested by a party believing that there have been adverse effects on their property.

Mr Kennedy also advised of difficulties which had resulted from the grant of a licence to occupy the road reserve in front of the developers property which affected access to his property. He emphasised that sites need to be actually inspected; and that neighbours should not be put to the expense of having to protect their access. Such a situation would not arise if all aspects of the effects of earthworks are ascertained.

Mr Kennedy also appears to be raising a concern with respect to the effects of providing an affected persons approval. He is concerned that in essence once such approval is given to an original application; those who have provided such approval lose their rights of objection to any change.

### **7.2.10 Transpower New Zealand Ltd**

Correspondence dated 2 December 2014 was received from **Ms Sarah Shand** Environmental Planner with Transpower New Zealand Ltd in relation to the submission lodged by Transpower New Zealand Limited (49/56).

Ms Shand acknowledged that the section 42A report recommends that the majority of the reliefs sought by Transpower be accepted or accepted in part. Transpower supports these recommendations with two exceptions.

Ms Shand advised that since lodging the submission Transpower has become aware that the Site Standard 22.3.3viii which relates to the Frankton-Cromwell Electricity Transmission Lines does not provide for rural fences or horticultural structures as exemptions. Accordingly Transpower promotes that the following exemption be included in Site Standard 22.3.3viii:

- “● *Vertical holes not exceeding 500mm in diameter are exempt provided they [sic]:*
  - i. more than 1.5m from the outer edge of pole support structure or stay wire; or*
  - ii. are a post hole for a farm fence or horticulture structure and more than 5m from the visible outer edge of a tower support structure foundation.”*

Ms Shand also noted that Transpower sought to include a new non-complying activity Rule 22.3.2.5(c) as follows:

#### **“Cromwell – Frankton A National Grid Electricity Line**

*(c) Any earthworks, cleanfill or mining activity which do not comply with Site Standard 22.3.3viii(a)(ii) or 22.3.3viii(a)(iii).”*

Ms Shand noted that the section 42A report recommends that this aspect of the submission be rejected; but Transpower considers that the non-complying rule is necessary as Transpower should be considered an affected party for any earthworks that breach the Site Standard 22.3.3viii(a)(ii) and (iii) which relates to Transpower’s Cromwell-Frankton A National Grid Electricity Line. Ms Shand emphasised that this is the only transmission line going into Queenstown and that if it is undermined this could result in an outage for Queenstown and the wider District.

Transpower considers that the non-complying activity status for a breach of these rules should be provided as it sends a clear message that a breach of these permitted activity rules should not be supported and are likely to be opposed by Transpower.

### **7.2.11 Queenstown Airport Corporation**

Correspondence dated 3 December 2014 from **Ms Kirsty O’Sullivan** of Mitchell Partnerships Limited was tabled in support of the submission by Queenstown Airport Corporation (QAC) (49/46).

Ms O’Sullivan advised that the QAC recognises that earthworks are a necessary part of subdivision and development throughout the District but is concerned, however, that

uncontrolled or poorly managed earthworks have the potential to cause significant adverse safety effects for aircraft using Wanaka or Queenstown Airport. Ms O'Sullivan confirmed that QAC is generally supportive of the section 42A report recommendations with regards to the provisions proposed in PC 49.

Ms O'Sullivan advised that the QAC is concerned that the amendments proposed in the section 42A report to Policy 1.2, Site Standard 22.3.3(iv) and Assessment Matter 22.4(ii) provide no explicit recognition of the effects of dust plumes on sensitive receivers such as overhead aircraft. QAC maintains that the original drafting of these provisions (subject to the amendments sought by QAC in its submission) is preferable and more definitive than that recommended in the section 42A report. The QAC therefore considers that the notified provisions, as amended in terms of the QAC submission, should be retained.

Ms O'Sullivan noted that the QAC submission on PC 49 opposed the notification parameters for earthworks consents in part. The section 42A report recommends rejecting the QAC submission in this context and, on reflection, the QAC now seeks an alternative relief with respect to including the following in Section 22.3.1(i) that contains District Wide Rules under the general heading "General Provisions/Cross Referencing":

- (c) *Figures 1 to 4 of the District Plan identify the Airport Protection Inner Horizontal and Conical Surfaces for Queenstown and Wanaka Airports. Any plant or machinery used to undertake earthworks shall not penetrate the surfaces outlined in these figures, and further described in Designations D.3 and E.2 without the prior approval of the respective requiring authority and the Civil Aviation Authority.*

Ms O'Sullivan advised that the above amendment is an alternative and a more definitive solution to the notification issue which concerns the submitter.

Ms O'Sullivan noted that the QAC submission sought the inclusion of the following policy which does not appear to have been directly addressed in the section 42A report:

*To recognise that earthworks associated with infrastructure can positively contribute to the social and economic wellbeing, and the health and safety of people and communities within the District.*

Ms O'Sullivan considered that it is important that the plan recognise that a balance is sometimes necessary between achieving environmental outcomes and enabling people and the community to provide for their social and economic wellbeing. She considered this to be consistent with Part 2 of the RMA and that such a policy (as suggested above) would also support the inclusion of resource consent assessment matters detailed on page 7 of Table 1 of the QAC submission.

QAC submitted that the Queenstown Airport Mixed Use Zone provides for land use activities more akin to industrial and business activities; and that therefore permitted earthworks volumes for this zone should reflect those of the Industrial and Business Zones and should be provided for in Tier 5 in Table 22.1.

Ms O'Sullivan noted that the section 42A report appears to have accepted the submission; but that this has not been carried through to the final amendments made to the provisions. QAC seeks that this amendment be carried through and that the Queenstown Airport Mixed Use Zone be included in Tier 5 where a maximum total volume of 500m<sup>3</sup> of earthworks is permitted.

### **7.3 The Officers Report and Response to Matters Raised by Submitters**

**Mr Pickard's** section 42A report dated 17 November 2014 discussed the matters raised by submitters and further submitters in response to PC 49 to assist the Commission in its consideration of these matters.

Following the presentation of evidence and the tabling of evidence and correspondence, Mr Pickard responded to questions raised by the Commission at the commencement of the hearing; and he then addressed the matters raised by submitters in correspondence and at the hearing.

Mr Pickard advised that Heritage Landscapes can be distinguished from Outstanding Natural Landscapes on the basis that they can relate to different layers of occupation over time. Mr Pickard considered that it is valid to specifically identify Heritage Landscapes in Table 22.1 as the effects of earthworks may be different in the context of Heritage Landscapes.

Mr Pickard noted that Section 4.11 of the Operative District Plan is to be deleted by PC 49; but that Section 4.2 stands. He advised that Section 22 is intended to be a reasonably standalone section of the District Plan but acknowledged that other provisions of the District Plan would be relevant to any application. Accordingly Mr Pickard had no problem with a cross reference to Section 4.2 being included in Section 22.

Mr Pickard tabled sections 205 and 206 of the Ngāi Tahu Claims Settlement Act 1998; and Schedule 92 to that Act which relates to Tititea (Mount Aspiring) and the relevant plan referred to in that schedule. Section SA of the District Plan contains details with respect to the Statutory Acknowledgment areas.

Mr Pickard anticipated that consultation would need to occur with Ngai Tahu to determine whether earthworks would affect Ngai Tahu's cultural, spiritual, historic and traditional association with land subject to or within a Statutory Acknowledgement Area, as provided for in terms of Site Standard 22.3.3vi(b). Mr Pickard acknowledged that the Statutory Acknowledgement does not form the basis of rules elsewhere in the District Plan.

Mr Pickard responded to the contents of correspondence that had been tabled by submitters at the hearing.

Mr Pickard noted that the Oil Companies (submitter 49/55) have promoted that various provisions recommended in the section 42A report be amended or adopted. Mr Pickard confirmed that he supported all of the additional amendments promoted by the Oil Companies as detailed in Mr Laurenson's statement.

Mr Pickard also responded to the contents of Ms Shand's correspondence which related to the submission lodged by Transpower New Zealand Limited (49/56). Mr Pickard agrees with the amendment to Site Standard 22.3.3viii which would provide an exemption for vertical holes not exceeding 500mm as suggested by Ms Shand.

Mr Pickard noted that the suggested new non-complying activity Rule 22.3.2.5(c) relates to a breach of Site Standard 22.3.3viii(a)(ii) and (iii) only, and does not relate to a breach of Site Standard 22.3.3viii(a)(i). Mr Pickard did not favour a non-complying rule which relates to two of the three elements of Site Standard 22.3.3viii(a) and he preferred that if non-complying activity status was to relate to a breach of the Site Standard, such status should relate to a breach of all three elements ie. to a breach of Site Standard 22.3.3viii(a)(i), (ii) and (iii).

Mr Pickard also noted the correspondence received from Ms O'Sullivan for the Queenstown Airport Corporation (49/46). Mr Pickard noted that the submitter is opposed to the amendments to Policy 1.2, Site Standard 22.3.3iv and Assessment Matter 22.4ii as detailed in the section 42A report. Mr Pickard is satisfied that his suggested amendments which provide for effective dust control measures to be implemented (in terms of Site Standard 22.3.3iv(b)) are measureable and are appropriate. Accordingly Mr Pickard does not support a return to the relevant notified provisions of PC 49, as suggested by the submitter.

Mr Pickard agreed that it would be appropriate to insert an additional provision 22.3.1i(c) being the alternative solution proposed by Ms O'Sullivan for the submitter.

Mr Pickard acknowledged that Ms O'Sullivan had noted that the QAC submission had sought the inclusion of an additional policy. Mr Pickard advised that this policy is addressed on page 17 of the section 42A report in the context of Queenstown Airport Corporation (49/46/3). The Commission understands that Mr Pickard is agreeable to the insertion of a new policy in PC 49, consistent with that suggested by the submitter.

Mr Pickard also concurred with the submitter that the Queenstown Airport Mixed Use Zone should be included in Table 22.1 in Tier 5. Earthworks having a maximum volume of 500m<sup>3</sup> would therefore be permitted in the Queenstown Airport Mixed Use Zone.

Mr Pickard also addressed various matters raised by submitters who appeared at the hearing.

Mr Pickard noted that Ms Black for Te Anau Developments Ltd (49/54) has promoted that Rural Visitor Zones should have the same maximum volume of earthworks as applied in the Rural General Zone. Mr Pickard confirmed that activity in the Rural Visitor Zone is to be assessed in the context of a rural environment; albeit that farming activity is likely to be less. Accordingly it appears appropriate that the maximum total volumes permitted in the Rural General Zone should also apply in the context of the Rural Visitor Zone.

Mr Pickard advised that it is intended to make provision for snowmaking activities within the Ski Area Sub-Zone. The intention of PC 49 is not to restrict such development.

Mr Pickard acknowledged that Ms Black had referred to the large unstable scree fields that lie above the Walter Peak property; and which tumble down and require clearance to keep pasture free. Mr Pickard supported the introduction of a provision which would provide for remedial works to enable the removal of scree and other debris from paddocks.

Mr Pickard referred to the presentation by Mr Wells on behalf of Millbrook Country Club Ltd (49/42) and others. He noted that the exemption for earthworks associated with the construction of a house within an approved residential building platform in Rule 22.3.1ii(a)(iii) is intended to exempt earthworks associated with access and curtilage.

Mr Pickard acknowledged Mr Well's criticism of Rule 22.3.2.4(c) which is specific to the Jacks Point Zone. Mr Pickard acknowledged that while a breach of a Site Standard defaulting to a discretionary (restricted) activity is a convention that applies through much of the District Plan; it is not a requirement.

Mr Pickard also noted Mr Wells's concerns with respect to Rule 15.2.20.2 which provides for bulk earthworks (defined as 50,000m<sup>3</sup> or more) associated with any subdivision as a discretionary activity. Mr Pickard emphasised that earthworks associated with subdivision can occur within a variety of receiving environments. Discretionary activity status enables a wide range of effects to be taken into account; while restricted discretionary activity status

would require identification of the wide variety of potential environments/effects. Mr Pickard distinguished the effects of large subdivision on relatively flat sites compared with those which may occur on more sloping land. In the latter case the effects may be substantial rather than limited.

Mr Pickard responded to Mr Fitzpatrick's presentation for Remarkables Park Limited (49/50) and others. Mr Pickard observed that the intent of PC 49 was to bring all earthworks provisions into one section of the District Plan (Section 22). He acknowledged that some earthworks provisions may not have been consolidated into Section 22 as provided for in PC 49. He advised that if the Commission accepted that it is more efficient to maintain the status quo with respect to the earthworks provisions for the Remarkables Park Zone and other Special Zones; that a statement to this effect as promoted in Mr Fitzpatrick's paragraph 11.16 should be included. If this course is taken all references to the Remarkables Park Zone and other Special Zones should be removed from Section 22.

Mr Paetz supported the proposition that PC 49 should not apply to the Special Zones detailed in Section 12 of the District Plan. He considered that PC 49 should be limited in scope to the zones originally included in the District Plan prior to the introduction of the various Special Zones as now presented in Section 12. Mr Paetz accepted that it makes sense to leave the Special Zone provisions as they are for the time being. He considered that the philosophy of consolidation of the earthworks provisions remains appropriate and that this is a matter which can be further advanced in the context of the District Plan Review.

Mr Pickard responded to the points raised by Mr Goldsmith who appeared for Blackmans Creek Holdings No 1 LP and others. Mr Pickard acknowledged that the Ski Area Sub-Zones are the venues for other recreational activities apart from skiing; including cycle and walking trails. He considered that the effects of providing for these other recreational activities through terrain modification is minimal. Mr Pickard acknowledged that it is necessary to provide water storage ponds at ski-fields for snowmaking; and that the creation of such ponds has not been in issue of concern to the District Council in the past. Mr Pickard advised that any issues with respect to the use of water and sedimentation is a matter that can be addressed by the Otago Regional Council. In all the circumstances Mr Pickard concurs that a full exemption should apply with respect to the earthworks rules in the context of the Ski Area Sub-Zones; and he acknowledged that such an exemption applies in the context of the Rural General Zone in the Operative District Plan.

Mr Pickard acknowledged that the Operative District Plan contains complex provisions including assessment matters relating to landscapes. Such assessment matters are contained in Section 5 of the District Plan and are relevant to the Rural General Zone. These provisions would also apply to all earthworks undertaken in the Rural General Zone.

Mr Pickard acknowledged Mr Goldsmith's observation that the Operative District Plan does not formally determine the extent and boundaries of ONLs and ONFs. In these circumstances he acknowledged Mr Goldsmith's legal concerns with respect to referring to Outstanding Natural Landscapes and Outstanding Natural Features in Table 22.1. Mr Pickard suggested that a legal opinion may be necessary to resolve this issue of legal status of ONLs and ONFs. The Commission simply acknowledges that there is a significant legal difficulty referring to Outstanding Natural Landscapes and Outstanding Natural Features in Table 22.1 for the reasons stated by Mr Goldsmith; and accordingly the Commission considers that it would be inappropriate to include rules specific to these landscapes in Table 22.1. It is again noted in this context that any earthworks in the Rural General Zone will be subject to assessment in accordance with the assessment matters contained in Section 5 of the Operative District Plan.

Mr Pickard noted Mr Goldsmith's observation that there appears to be little value in maintaining a Tier 6A given that there are not many properties left which exceed 100 hectares particularly in the Wakatipu Basin. Mr Pickard observed that there will be some properties exceeding 100 hectares and that accordingly that Tier 6A should be retained.

The Commission acknowledges that subsequent to the hearing Mr Pickard provided suggested amendments to the PC 49 provisions (to supercede those included with the section 42A report) which deleted reference to the Outstanding Natural Landscapes and Outstanding Natural Features from Section 22 (including Table 22.1) and which amended Tier 6A to confirm that any earthworks to be undertaken are for the purposes of farming activity.

## 8.0 ASSESSMENT

The Act requires that submission points are addressed by grouping them according to the provisions of the plan change to which they relate, or the matters to which they relate. For convenience the Commission has generally followed the format set out in Mr Pickard's section 42A report which is to group submission points on the basis of the following issues.

- General
- Purpose
- Objectives
- Policies
- General provisions/cross referencing
- Rules – levels of activities
- Non-notification
- Site Standards
- Assessment matters
- Definitions

For each issue this report is generally structured as follows:

- Issues and Discussion
- Recommendation(s)

This report contains a general summary of each issue and the main point raised by the submission and/or further submission. The discussion reflects the Commission's assessment of the submission point and provides reasons for the recommendation.

The recommendations relate to the submission points that have been raised in the context of each issue. The recommendations state whether each submission point is to be **accepted, accepted in part** or **rejected**.

It should be noted that in many instances identical submission points have been raised in several submissions. In such circumstances the Commission has chosen for reasons of brevity to refer to one of the submitters only (eg Blackmans Creek Holdings No 1 LP) in the report and recommendations. That submitter is deemed to be representative of all other submitters who have raised that specific submission point in their submissions.

The full list of the submitters and further submitters to PC 49 is provided at **Appendix 1**.

In this report submission points and further submission points are identified by three numbers eg. 49/10/1. This numbering system for submission points and further submission points is used in the Summary of Submissions and Further Submissions that is presented

at **Appendix 2**; and this numbering system is used in the Commission's recommendations in Sections 8.1-8.10 of this report.

Attached at **Appendix 3** is PC 49 as amended by the Commission's recommendations.

The Commission confirms that it has given consideration to the full contents of all submissions and further submissions lodged in response to PC 49, copies of which were provided to the Commission prior to the hearing.

## **Summary of Findings**

The fundamental matter for the Commission to determine is whether PC 49 should proceed. Following the Commission's consideration of PC 49 and the submissions and further submissions (including submissions and evidence presented at the hearing), the Section 32 Analysis and the section 42A report and attachments, the Commission has concluded that the proposed plan change is appropriate, subject to amendments.

The Commission acknowledges that PC 49 consolidates provisions that relate to earthworks in the new Section 22 : Earthworks. The section 42A report has recommended amendments to these provisions as notified; and additional amendments were promoted by parties at the hearing, several of which were supported by Mr Pickard.

The Commission is satisfied that PC 49 should proceed, subject to amendments.

Amendments are made to improve the wording of the objectives and associated policies to better align with the language used in the Act.

The Commission is satisfied that Section 22 should relate to earthworks in all zones except for the Special Zones contained in Section 12 of the Operative District Plan with the exception of the Rural Visitor Zone. The Commission accepts that there are sound reasons for the tailored provisions contained in Section 12; and the status quo should be maintained with respect to the Special Zone earthworks provisions.

The Commission is also satisfied that earthworks in the Ski Area Sub-Zones should be exempt from Section 22. This is consistent with the Operative District Plan and recognises that substantial earthworks are required in conjunction with ski-field operations, including the establishment of ponds for snowmaking and earthworks for other recreational activities such as cycling and walking.

The Commission is satisfied that the maximum total volume approach inherent in Table 22.1 is appropriate; albeit that modifications are required to the table. In particular references to Outstanding Natural Landscapes and Outstanding Natural Features should be deleted from Table 22.1 as these landscapes and features are not formally identified in the Operative District Plan and/or rely on the outcome of the assessment process provided for in Section 5 of the District Plan.

The Commission is satisfied that bulk earthworks undertaken in association with subdivision should not be a full discretionary activity. This is because subdivision in the Rural General Zone has discretionary activity status and as the decision to apply urban zoning anticipates future subdivision and development (including earthworks).

The Commission discusses the specific issues and points raised in submissions in detail in Sections 8.1-8.10 below. In some instances the Commission has accepted or accepted in part submission points which have resulted in modifications to PC 49 as notified.

Where appropriate the wording of the provisions of PC 49 have been refined and improved as a consequence of the Commission's consideration of submissions and PC 49 as notified. All such amendments are incorporated into PC 49 as presented at **Appendix 3** to this report.

## **8.1 General**

### **8.1.1 The entire Plan Change**

#### **Issues and Discussion**

Paterson Pitts Partners (Wanaka) Ltd (49/45/1) supports proposed PC 49 in its entirety. While this support is noted it is necessary to make amendments to satisfy matters raised in other submissions.

Queenstown Central Ltd (49/47/1) partly supports the Plan Change, particularly the streamlining of the controls and taking a more consistent approach across the district; providing a robust framework in terms of objectives and policies associated with earthworks; recognising that earthworks are required to facilitate development and that the provisions need to be enabling; and removing the area (m2) control and just having a volume (m3) control.

General support is also given through Trojan Holdings Ltd (49/57/6) that supports simplifying and streamlining the proposed earthworks for District Plan zones by consolidation into one chapter of the District Plan. Trojan Holdings (49/57/10) promotes that PC 49 be approved subject to the amendments promoted by the submitter, including any consequential amendments. It is acknowledged that this submission relates to various zones but not to the Special Zones contained in Section 12 of the District Plan.

#### **Recommendation**

That the submissions by Paterson Pitts Partners (Wanaka) Ltd (49/45/1), Queenstown Central Ltd (49/47/1) and Trojan Holdings Ltd (49/57/6 & 49/57/10) be **accepted in part**.

### **8.1.2 Consequential Amendments**

#### **Issue and Discussion**

Blackmans Creek Holdings No 1 LP (49/1/30), Cambricare NZ Ltd (49/18/7), Barley Station Ltd (49/21/7), Gibbston Valley Station (49/28/9), Glencoe Station Limited (49/30/1), John Edmonds and Associates Ltd (49/32/18), Millbrook Country Club Ltd (49/42/6), Queenstown Airport Corporation (49/46/10), Queenstown Central Ltd (49/47/6), RCL Queenstown (49/49/8), Southern Hemisphere Proving Grounds (49/53/3) and Transpower NZ Ltd (49/56/8) request that any alternative, additional or consequential amendments that are appropriate in order to address the issues raised in the respective submissions, be made to PC 49.

The Commission has taken the opportunity to make such consequential amendments as are appropriate depending on whether the specific points raised in submissions are accepted or accepted in part (as detailed under specific headings below).

#### **Recommendation**

That the submissions by Blackmans Creek Holdings No 1 LP (49/1/30), Cambricare NZ Ltd (49/18/7), Barley Station Ltd (49/21/7), Gibbston Valley Station (49/28/9), Glencoe Station Limited (49/30/1), John Edmonds and Associates Ltd (49/32/18), Millbrook Country Club

Ltd (49/42/6), Queenstown Airport Corporation (49/46/10), Queenstown Central Ltd (49/47/6), RCL Queenstown (49/49/8), Southern Hemisphere Proving Grounds (49/53/3) and Transpower NZ Ltd (49/56/8) be **accepted in part**.

### **8.1.3 Withdraw the plan change and repeat consultation and evaluation**

#### **Issues and Discussion**

Coronet Estates Ltd (49/15/1), Glen Dene Ltd (49/29/2), Lake Wakatipu Station Limited (49/36/1) and Mike Mee (49/41/1) all request that the Council withdraw PC 49 and reconsider a number of aspects, including further consultation. They submit that Council should make the provisions more aligned with the stated intention which is to make earthworks more permissive, more streamlined and less complex. They consider that this could be achieved by:

- Reducing the number and complexity of objectives and policies.
- Removing repetition, and removing those policy provisions that are not necessary.
- Reducing the number of assessment matters
- Including earthworks provisions within each zone, as is currently the case.

The section 42A report notes that the above general opposition is not supported by any assessment on a par with the monitoring report / Section 32 Analysis that resulted in proposed PC 49. The duplication of detail across the Plan is an issue that will be addressed by PC 49. Amendments to the provisions that will further simplify and streamline PC 49 have been made following consideration of specific points raised in submissions. The Commission is satisfied that adequate consultation has occurred (including through the submission process); and it is not considered appropriate to withdraw PC 49 at this stage.

The submitters have also opposed PC 49 on the basis that it:

- Does not accord with, or assist the territorial authority to carry out its functions to achieve, the purpose of the Resource Management Act 1991 (the "Act");
- Does not promote sustainable management;
- Does not meet section 32 of the Act;
- Does not represent integrated management or sound resource management practice; is not the most appropriate method for achieving the objectives of the District Plan having regard to its efficiency and effectiveness, and taking into account the costs and benefits.

The Commission is satisfied that the process that has resulted in proposed PC 49, being: environmental monitoring to establish issues, evaluation of effectiveness of existing and proposed provisions, combined with consultation and acknowledgement of legislative provisions and best practice, is sound. The section 32 process is an evaluation and the submissions do not offer alternatives supported by a comparable level of evaluation. The Commission is satisfied that PC 49, as amended in accordance with the recommendations contained in this report, will serve to promote sustainable management and will assist the Council to carry out its functions to achieve the purpose of the Act.

## **Recommendation**

That the submissions by Coronet Estates Ltd (49/15/1), Glen Dene Ltd (49/29/2), Lake Wakatipu Station Limited (49/36/1) and Mike Mee (49/41/1) be **accepted in part** to the extent that the provisions of proposed PC 49 have been amended in accordance with the specific recommendations contained in this report relating to other submissions.

### **8.1.4 Format**

#### **Issues and Discussion**

John Edmonds and Associates Ltd (49/32/5) requests that Council review numbering, formatting and headings, to aid interpretation and to ensure consistency with similar chapters in the District Plan, with particular attention to ensuring that it is clear what are rules, notes and cross references.

The Commission has made various alterations to proposed PC 49 to improve the presentation of the relevant provisions. These amendments have been made as a consequence of points raised in submissions and as consequential amendments.

#### **Recommendation**

That the submission by John Edmonds and Associates Ltd (49/32/5) be **accepted**.

### **8.1.5 Material Incorporated by Reference**

#### **Issues and Discussion**

John Edmonds and Associates Ltd (49/32/14) requests that Council ensure that PC 49 is compliant with Part 3 in Schedule 1 of the RMA (with respect to incorporating documents by reference).

The Commission acknowledges the obligations placed on the Council when incorporating documents by reference in plans and proposed plans as detailed in Part 3 in Schedule 1 of the Act. In particular Clause 31 states that an amendment to, or replacement of, material incorporated by reference in a plan or proposed plan has legal effect as part of the plan or proposed plan only if the District Plan states that the amendment or replacement has that effect.

#### **Recommendation**

That the submission by John Edmonds and Associates Ltd (49/32/14) be **accepted**.

### **8.1.6 Natural support of land**

#### **Issues and Discussion**

Patrick Kennedy (49/34/1) requests that where excavation and retaining occurs and leaves a narrow sliver of land (e.g. 10mm) between the sheet piling and the (non-excavating) neighbour's property boundary, ownership of that sliver of land on the non-excavating neighbour's side of the support structure should be required to be vested in that non-excavating neighbour. Otherwise it is likely that the neighbour could be held to ransom in relation to his own developments on the support issue by the owners of the excavated property.

The Commission has noted the contents of the email from Mr Kennedy which was tabled at the commencement of the hearing. It appears that the issues raised relate to a specific

development which has occurred at 37-41 Lakeside Road in Wanaka adjacent to the submitter's property. The suggestion made by the submitter, to the effect that the ownership of a strip of land be vested in the non-excavating neighbour, is a matter which falls outside the scope of PC 49 and the Council's legal powers.

The submitter also considers that the owners of any property where there is a support structure for a neighbouring property should be liable for its removal should it no longer be required and that the owners should not be able to demand that the neighbouring property in any way continue to provide support for it.

It is understood that landowners are allowed to excavate their own land but neighbours are entitled to "natural support", that is, lateral support of the land in its natural position. The facility to carry out earthworks up to the site boundaries is addressed through the Site Standards in PC 49 and the Commission is satisfied that no further changes are required. Placing an obligation on the developer to remove a support structure and/or addressing the issue of requiring a neighbouring property to provide support falls beyond the scope of PC 49.

### **Recommendation**

That the submission by Patrick Kennedy (49/34/1) be **rejected**.

## **8.1.7 NZECP 43: 2001 & Showing of High Voltage Transmission Lines**

### **Issues and Discussion**

Transpower New Zealand Ltd (49/56/6) requests that the Council retain and amend all references to correctly refer to the "New Zealand Code of Practice for Electrical Safe Distances (NZECP 34: 2001)".

It is appropriate that the correct reference be made to the Code of Practice wherever referred to in the provisions introduced by PC 49.

Transpower New Zealand Ltd (49/56/7) also promotes that the District Plan Maps be amended to show the existing Cromwell-Frankton A National Grid Electricity Line on the District Plan Maps.

The latter is a requirement of the National Policy Statement Electricity Transmission (NPSET) and the Commission was informed by Mr Pickard that this was acknowledged by the Council in the initial stages of the District Plan Review.

The approach taken by the Council is to include the High Voltage Transmission Lines which form part of the national grid on the District Plan Review Planning Maps rather than initiating a plan change to show the High Voltage Transmission Lines in the Operative District Plan.

The Commission notes that this matter was not pursued further by Ms Shand on behalf of Transpower in the correspondence tabled at the commencement of the hearing. The Commission has significant doubts whether PC 49, which relates to earthworks, is wide enough in scope to permit the showing of the Cromwell-Frankton A National Grid Electricity Line on the District Plan Maps. In all the circumstances the Commission is satisfied that the status quo should be maintained and that the District Plan Review is the most appropriate mechanism to implement the NPSET in this District.

### **Recommendations**

1. That the submission by Transpower New Zealand Ltd (49/56/6) be **accepted**.

2. That the submission by Transpower New Zealand Ltd (49/56/7) be **accepted in part** to the extent that it is noted that it is the Council's intention to show the Cromwell-Frankton A National Grid Electricity Line on the District Plan Maps in the context of the District Plan Review.

### **8.1.8 Ski Area Sub-Zones**

#### **Issues and Discussion**

Te Anau Developments Ltd (49/54/5) requests that Council retain the current operative Ski Area Sub-Zone earthworks exemptions or modify PC 49 to incorporate the same level of exemptions.

The Commission acknowledges that the submitter and several other submitters represented at the hearing promoted that the Ski Area Sub-Zone earthworks exemptions be continued into PC 49. The Commission accepts that the ski-fields are an important part of the District's tourism base and economy; and that substantial earthworks are associated with ongoing ski-field development. The Commission finds that it is appropriate to amend PC 49 to provide for the exemptions for earthworks in the Ski Area Sub-Zone to be continued in the context of PC 49. As noted above Mr Pickard supported such exemptions at the conclusion of the hearing.

#### **Recommendation**

That the submission by Te Anau Developments Ltd (49/54/5) be **accepted**.

### **8.1.9 Significant Indigenous Vegetation**

#### **Issues and Discussion**

Trojan Holdings Ltd (49/57/5) requests that the Council amend Site Standard 5.3.5.1x such that it shall not apply to indigenous vegetation clearance carried out in accordance with any relevant Conservation Management Plan or Strategy or Concession approved by the Department of Conservation (DoC); and that should the Council consider this submission to be beyond the scope of PC 49, the submitter requests that the change be made as part of the overall review of the Part 5 Rural Area provisions.

Rule 5.3.5.1x relates to the clearance of indigenous vegetation. This rule is outside the scope of PC 49 which is specific to earthworks provisions. The Commission is satisfied, in all the circumstances, that it would not be appropriate to amend Site Standard 5.3.5.1x as promoted by the submitter.

The section 42A report advised that provisions for indigenous vegetation are being reviewed in Stage 1 of the District Plan Review. Mr Pickard advised the Commission that the duplication of regulation between the Council and DoC will be assessed as part of this process. Accordingly the Commission considers that the District Plan Review is the appropriate forum for the submitter to pursue this issue.

#### **Recommendations**

That the submission by Trojan Holdings Ltd (49/57/5) be **rejected**.

## **8.1.10      Continuity**

### **Issues and Discussion**

Cardrona Alpine Resort (49/26/8) and Te Anau Developments Ltd (49/54/8) request clarification of which rules relate to each level of activity (ie, controlled, restricted discretionary, discretionary and non-complying), and how the Site Standards relate to those rules.

The rules appropriate to each level of activity are identified in the first paragraph in the specific rules which relate to each level of activity. The Site Standards are a set of standards that development must comply with if it is to be considered a permitted activity (and not require resource consent). This is confirmed in Rule 22.3.2.1(a) albeit that the controlled level of activity has been omitted from that rule in the notified version of PC 49, and is hereby included.

### **Recommendation**

That the submissions by Cardrona Alpine Resort (49/26/8) and Te Anau Developments Ltd (49/54/8) be **accepted in part**.

As a consequence of this recommendation Rule 22.3.2.1(a) is amended to state:

“Any earthworks activity which complies with all the relevant Site Standards and is not listed as a **Controlled, Restricted Discretionary, Discretionary, Non-Complying** or **Prohibited Activity** shall be a **Permitted Activity**.”

## **8.1.11      Zone Specific**

### **Issues and Discussion**

Millbrook Country Club Ltd (49/42/1) requests that the Council amend PC 49 such that it is not applicable to the Millbrook section of the Resort Zone. Remarkables Park Ltd (49/50/1) and Shotover Park Ltd (49/52/1) request that Council withdraw the plan change and consult with them directly as they deem the level of prior consultation to be inadequate.

Remarkables Park Limited (49/50/2) also requests that should the Council continue with PC49 as notified, the earthworks provisions as they relate to the Remarkables Park Zone (RPZ) not be changed as a result of PC49. Shotover Park Limited (49/52/2) also requests that Council reconsider the retention of earthworks provisions within each zone.

The submissions and evidence presented at the hearing has demonstrated that there are particular reasons which justify the tailored approach to earthworks that is inherent in the Special Zone earthworks provisions as detailed in Section 12 of the Operative District Plan. Accordingly the Commission considers that these provisions should not be subject to PC 49 and that the provisions of PC 49 should be amended accordingly. Such an approach avoids the potential difficulties which would arise if some but not all of the tailored earthworks provisions are deleted (as promoted in the notified PC 49).

The Commission is satisfied that PC 49 should apply to those zones provided for in the District Plan in Sections 5-11 inclusive. Those zones are more generic in nature and lend themselves to standardised earthworks provisions as promoted in PC 49.

### **Recommendations**

1. That the submissions by Millbrook Country Club Ltd (49/42/1), Remarkables Park Limited (49/50/2) and Shotover Park Limited (49/52/2) be **accepted in part** to the

extent that the Special Zones presented in Section 12 of the District Plan will not be subject to the PC 49 provisions.

2. That the submissions by Remarkables Park Limited (49/50/1) and Shotover Park Limited (49/52/1) which promote that PC 49 be withdrawn by **rejected**.

## 8.2 Purpose

### 8.2.1 General

#### Issues and Discussion

Gibbston Valley Station (49/28/1) and Blackmans Creek Holdings No 1 LP (49/1/1) request that that the first two paragraphs in Section 22.1 be reversed, in order to reinstate the original order of focus and to achieve consistency with the order of the objectives and policies. The Commission agrees that such an amendment is appropriate.

Kai Tahu ki Otago Ltd (49/33/1) supported by *Heritage New Zealand (49/31/25)* partly supports Section 22.1 as drafted, but requests the inclusion of a reference as follows, in order to acknowledge effects on heritage landscapes:

"Earthworks have the potential to alter landforms, landscapes, and natural features, and to have effects on heritage landscapes, to such an extent that the identity, amenity values and character of an area can be changed permanently."

The Commission considers that a generic reference to heritage landscapes in the Purpose is appropriate and acknowledges that indicative lines for Heritage Landscapes are identified in Appendix A10 of the Operative District Plan.

Otago Regional Council (49/44/1) requests that Council re-phrase paragraph 6 of the Section 22.1 as follows:

"The water plan identifies four main aquifers, Hawea Basin, Wanaka Basin, Cardrona alluvial ribbon and Wakatipu Basin but other lesser aquifers also need to be considered".

The submitter promotes an amendment referring to other lesser aquifers as other aquifers (other than the 4 that are named) may be worthy of consideration. The Commission agrees that a reference to other lesser aquifers is appropriate in the final paragraph of Section 22.1

#### Recommendations

1. That the submissions by Gibbston Valley Station (49/28/1), Blackmans Creek Holdings No 1 LP (49/1/1) and Kai Tahu ki Otago Ltd (49/33/1) supported by *Heritage New Zealand (49/31/25)* be **accepted**.
2. That the submission by Otago Regional Council (49/44/1) be **accepted in part** by referring to other lesser aquifers that also need to be considered.

### 8.2.2 National Policy Statement

#### Issues and Discussion

Otago Regional Council (49/44/2) and Queenstown Airport Corporation (49/46/1) request that the reference to the "National Policy Statement for Freshwater Quality (2011)" in the

fifth paragraph of Section 22.1 read “National Policy Statement Freshwater Management (2014)”.

The National Policy Statement for Freshwater Management 2014 supersedes the 2011 document and took effect on 1 August 2014. It is appropriate that the current NPS be referred to in Section 22.1.

### **Recommendation**

That the submissions by Otago Regional Council (49/44/2) and Queenstown Airport Corporation (49/46/1) be **accepted**.

## **8.3 Objectives**

### **8.3.1 “Avoid” versus “avoid, remedy, mitigate” and the benefits of earthworks**

#### **Issues and Discussion**

Coronet Estates Ltd, Wakatipu Retreat Ltd, Malaghans Park Ltd, and Arrowtown Downs Ltd (49/15/3), Cardrona Alpine Resort (49/26/1), Gibbston Valley Station (49/28/5), Lake Wakatipu Station Limited (49/36/2), Mike Mee (49/41/2), Queenstown Central Ltd (49/47/2), Woodlot Properties (49/58/1), Te Anau Developments Ltd (49/54/1), The Oil Companies (49/55/1), Blackmans Creek Holdings No 1 LP (49/1/5), Queenstown Airport Corporation (49/46/2), Barley Station Ltd (49/21/1) and Remarkables Park Ltd (49/50/3) request that Objective 1 be amended from “... avoids adverse effects...” to “avoids, remedies or mitigates adverse effects...”. The submitters request that the Council recognise that some earthworks can be successfully mitigated and that stating avoidance alone is too restrictive within the objective.

The Commission acknowledges that the use of the term “avoid” is absolute and that such language is inappropriate when the objective may relate to a wide spectrum of earthworks with a wide range of associated effects. In some instances such effects should be “avoided” and in others mitigation is more appropriate. Accordingly Objective 1 is to be amended to provide greater flexibility, and this is consistent with the language used in the Act.

Cambricare NZ Ltd (49/18/1), Millbrook Country Club Ltd (49/42/3) and RCL Queenstown (49/49/2) raise the issue of recognising that earthworks can be beneficial, as is the request for Council to ensure that in most parts of the District, primacy is not given to the protection of existing landforms at the expense of modifications associated with appropriate use and development.

The beneficial nature of earthworks is implicitly recognised in Objective 1 which is to “Enable earthworks...”. A more explicit statement with respect to the benefits of earthworks is not considered appropriate. The focus of Section 22 as introduced by PC 49 is to address the adverse effects of earthworks.

#### **Recommendations**

1. That the submissions by Coronet Estates Ltd, Wakatipu Retreat Ltd, Malaghans Park Ltd, and Arrowtown Downs Ltd (49/15/3), Cardrona Alpine Resort (49/26/1), Gibbston Valley Station (49/28/5), Lake Wakatipu Station Limited (49/36/2), Mike Mee (49/41/2), Queenstown Central Ltd (49/47/2), Woodlot Properties (49/58/1), Te Anau Developments Ltd (49/54/1), The Oil Companies (49/55/1), Blackmans Creek

Holdings No 1 LP (49/1/5), Queenstown Airport Corporation (49/46/2), Barley Station Ltd (49/21/1) and Remarkables Park Ltd (49/50/3) be **accepted**.

2. That the submissions by Cambricare NZ Ltd (49/18/1), Millbrook Country Club Ltd (49/42/3) and RCL Queenstown (49/49/2) be **accepted in part**.

### **8.3.2 Better Linkages**

#### **Issues and Discussion**

The following submissions request clarity and better linkages between the objectives and subsequent policies: John Edmonds and Associates Ltd (49/32/4) opposed by *Heritage New Zealand* (49/31/23), Otago Regional Council (49/44/3) and Shotover Park Ltd (49/52/3). John Edmonds and Associates Ltd (49/32/1) also requests that Council identify whether the provisions apply to rural or urban zones, and John Edmonds and Associates Ltd (49/32/2 and 49/32/3) requests that the Council restructure the objectives and policies so that many of them apply only to urban or rural zones (as specified) to appropriately reflect the effects that would reasonably be anticipated from earthworks in those zones.

Amendments have been made to various objectives and policies in response to other specific submissions. The effect of these amendments is to provide clarity and better linkages between the objectives and subsequent policies and the Commission therefore supports those generic submissions which request clarity and better linkages.

The Commission notes that the objectives and policies contained in Section 22.2 apply to rural and urban zones across the District; albeit that some objectives and policies are specific to particular areas eg. Ski Area Sub-Zones. The Commission does not consider that it is necessary or appropriate to restructure the objectives and policies to be specific to rural or urban zones as suggested.

#### **Recommendations**

1. That the submissions by John Edmonds and Associates Ltd (49/32/4) opposed by *Heritage New Zealand* (49/31/23), Otago Regional Council (49/44/3) and Shotover Park Ltd (49/52/3) be **accepted**.
2. That the submissions by John Edmonds and Associates Ltd (49/32/1, 49/32/2 and 49/32/3) be **rejected**.

### **8.3.3 Landscapes**

#### **Issues and Discussion**

Gibbston Valley Station (49/28/2) requests that Objective 2 be deleted and that if necessary for clarity, that Part 4.2 District Wide Objectives and Policies be cross referenced as these are relevant to landscape and visual amenity values.

Blackmans Creek Holdings No 1 LP (49/1/2) also opposes Objective 2 and requests that it be deleted; and that Council amend Objective 4 by deleting the words "Subject to Objective 2". This latter amendment is also sought by Gibbston Valley Station (49/28/2).

The Commission considers that Objective 2 is appropriate as it specifically relates to the adverse effects of earthworks on rural landscapes and visual amenity areas. The Commission agrees that it is appropriate to include a cross reference to the objectives and policies presented in Section 4.2 of the Operative District Plan as any earthworks will also be subject to those provisions.

The Commission considers that it is appropriate to amend Objective 4 to delete the words "Subject to Objective 2,..." as promoted by the submitters.

### **Recommendation**

That the submissions by Blackmans Creek Holdings No 1 LP (49/1/2) and Gibbston Valley Station (49/28/2) be **accepted in part**.

As a consequence of this recommendation a cross reference to Section 4.2 is to be included under Objective 2 and the words "Subject to Objective 2,..." are to be deleted from Objective 4.

## **8.3.4 Alignment with the RMA**

### **Issues and Discussion**

Queenstown Trails Trust (49/48/1) and Woodlot Properties (49/58/3) request that Objective 2 is amended by replacing the word 'adverse' with the word 'inappropriate' to better reflect section 6(b) of the RMA.

The Commission is satisfied that the use of the word "adverse" is appropriate in Objective 2 which also applies to landscapes other than those to which section 6(b) relates. The Commission considers that a reference to "inappropriate development" is not appropriate in Policy 2.1 given that section 6(b) states that the protection of outstanding natural features and landscapes from inappropriate ... development is a matter of national importance. Such inappropriate development should not be anticipated in the policy.

### **Recommendation**

1. That the submissions by Queenstown Trails Trust (49/48/1) and Woodlot Properties (49/58/3) be **rejected**.

## **8.3.5 Rural Areas**

### **Issues and Discussion**

Te Anau Developments Ltd (49/54/2) requests that Council:

- Amend Objective 4 by deleting the reference to Objective 2;
- Apply Objective 4 also to the Rural Visitor Zone, and
- Add further wording regarding Ski Area Sub-Zones to read as follows:

*"Objective 4 Earthworks in Rural General Zone, Rural Visitor Zone and Ski Area Sub-Zones; to enable earthworks .... and the development and operation of ski areas."*

Reference to Objective 2 in Objective 4 is recommended to be deleted in 8.3.3 (above).

Following consideration of Ms Black's evidence presented at the hearing the Commission is satisfied that it is appropriate to refer to the Rural Visitor Zone in Objective 4. The Commission also considers it appropriate to refer to the Rural General Zone and the Gibbston Character Zone explicitly in this objective.

Amendment to Objective 4 to delete reference to the Ski Area Sub-Zones and to insert a specific objective with respect to the Ski Area Sub-Zones is addressed in 8.3.6 (below).

### **Recommendation**

That the submission by Te Anau Developments Ltd (49/54/2) be **accepted in part**.

## **8.3.6 Ski Areas**

### **Issues and Discussion**

Cardrona Alpine Resort (49/26/3), Glencoe Station Ltd (49/30/2) and Southern Hemisphere Proving Grounds (49/53/1) request that Council amend the objectives to provide more specifically for the development and ongoing operation of ski –fields.

The Commission acknowledges that the Ski Area Sub-Zones are exempt from the current Operative District Plan provisions which relate to earthworks. This recognises the importance of the ski-fields to the District's economy and the need for earthworks to be undertaken to facilitate the operation of ski-fields, particularly with respect to creating ponds for snowmaking.

Given the need to enable the development and operation of ski-fields the Commission is satisfied that Objective 4 in notified PC 49 should be amended to delete reference to the Ski Area Sub-Zones; and that a new Objective 5 should be inserted to specifically relate to the development and operation of ski-fields within Ski Area Sub-Zones.

### **Recommendation**

That the submissions by Cardrona Alpine Resort (49/26/3), Glencoe Station Ltd (49/30/2) and Southern Hemisphere Proving Grounds (49/53/1) be **accepted**.

## **8.3.7 Cultural Heritage / Heritage**

### **Issues and Discussion**

Heritage New Zealand (49/31/1) partly supports the plan change (subject to amendments) and requests that reference to "New Zealand Historic Places Trust and Historic Places Trust" in Objective 6 [now Objective 7] be replaced with "Heritage New Zealand". The submitter also promotes an additional "Objective 6.8": "To protect heritage buildings and structures from potential undermining and vibration effects resulting from earthworks on the same site or sites in close proximity".

It is noted that both amendments promoted by the submitter relate to policies rather than to Objective 6 (as notified) per se. The Commission considers it appropriate that (now) Policy 7.2 correctly refer to Heritage New Zealand; and that an additional Policy 7.4 be included with respect to protecting heritage buildings and structures from potential undermining and vibration effects resulting from earthworks.

Kai Tahu ki Otago Ltd (49/33/2) specifically requests the retention of Objective 6 [now Objective 7]. The Commission notes that this objective specifically refers to "Heritage Landscapes" and accordingly it is not necessary to refer to "Heritage Landscapes" in Policy 2.1.

### **Recommendations**

1. That the submission by Heritage New Zealand (49/31/1) be **accepted in part**.

2. That the submission by Kai Tahu ki Otago Ltd (49/33/2) be **accepted**.

### **8.3.8 Retain as proposed**

#### **Issues and Discussion**

Trojan Holdings Ltd (49/57/3) supports proposed Objectives 2 and 4; and The Oil Companies (49/55/4) promote that Objectives 3 and 6 be retained, without modification.

It is noted that Objectives 2 and 4 have been modified as a consequence of the points raised in other submissions as discussed above. Objectives 3 and 6 have been subject to minor wording changes, albeit that there have been no changes of substance.

#### **Recommendation**

That the submissions by The Oil Companies (49/55/4) and Trojan Holdings Ltd (49/57/3) be **accepted in part**.

## **8.4 Policies**

### **8.4.1 General**

#### **Issues and Discussion**

Cambricare NZ Ltd (49/18/2), Barley Station Ltd (49/21/2), Millbrook Country Club Ltd (49/42/4), RCL Queenstown (49/49/3) and Shotover Park Ltd (49/52/4) request that the proposed policies be revised to more explicitly recognise the benefits of earthworks and to ensure that in most parts of the District primacy is not given to the protection of existing landforms at the expense of modifications associated with appropriate use and development, and that policies be amended to recognise that mitigation and remediation of effects arising from earthworks will often be an appropriate course of action.

Remarkables Park Ltd (49/50/4) also request that consideration be given to how the policies relate to each other.

As noted in 8.3.2 above the Commission acknowledges that the benefits of earthworks are explicitly recognised in the provisions; and that Objective 1, for example, enables earthworks. The Commission also notes that the focus of the provisions is on addressing the adverse effects of earthworks. Consideration has been given to how the policies relate to each other when addressing specific amendments promoted by other submitters.

#### **Recommendations**

1. That the submissions by Cambricare NZ Ltd (49/18/2), Barley Station Ltd (49/21/2), Millbrook Country Club Ltd (49/42/4), RCL Queenstown (49/49/3) and Shotover Park Ltd (49/52/4) be **accepted in part**.
2. That the submission by Remarkables Park Ltd (49/50/4) be **accepted**.

### **8.4.2 “Avoid” versus “Avoid, Remedy, Mitigate”**

#### **Issues and Discussion**

Woodlot Properties (49/58/2), Gibbston Valley Station (49/28/6) and Cardrona Alpine Resort (49/26/2) request that Policies 1.1 - 1.5 are amended to include "and mitigate" after the word "avoid"; to add the word "remedy" to Policy 1.5; to amend Policies 2.1 and 2.2 to

include "and mitigate" after the word "avoid", and Policy 3.3 is amended to include the words "remedy and mitigate" after the word "avoid"; and to remove the words "including tracking". Similar amendments are requested by Queenstown Central Ltd (49/47/3) and Queenstown Trails Trust (49/48/2).

Coronet Estates Ltd, Wakatipu Retreat Ltd, Malaghans Park Ltd Arrowtown Downs Ltd (49/15/4), Mike Mee (49/41/3) and Lake Wakatipu Station Ltd (49/36/3) request that Council recognise that some earthworks can be successfully mitigated and that stating avoidance alone is too restrictive within the policies.

Queenstown Airport Corporation (49/46/3) requests a similar amendment to Policy 1.2 as above and also that reference is included to "dust plumes above the site". A further element of the submission requests that a new policy is added "To recognise circumstances where the regional or national benefits of earthworks related to regionally significant infrastructure outweigh the adverse effects".

The Oil Companies (49/55/2) request that Policy 1.2 provides that adverse effects of earthworks on communities be managed rather than avoided, and that Policies 1.1, 1.3 and 1.4, (49/55/3), Policies 3.1 and 3.3 (49/55/5), Policies 6.1 and 6.7 (49/55/7) are retained without modification. Policy 5.1 is modified to avoid, to the extent practicable; and that Policy 5.2 is retained (49/55/6).

Blackmans Creek Holdings No 1 LP (49/1/12) requests that Policy 1.2 is amended to address the following points:

- In the second and sixth bullet points, the second part commencing "...to avoid...etc" should be deleted.
- The fourth and fifth bullet points should refer to "construction".
- In the fifth bullet point the words "...taking into account the receiving environment..." should be deleted because this should be considered for every consent.

Blackmans Creek Holdings No 1 LP (49/1/6) seeks amendment of Policies 1.2 and 1.5 as follows:

- Amend "...avoids, adverse effects..." to read "...avoids, remedies, or mitigates adverse effects..."

The Commission accepts the submitters' primary concern that the relevant policies should use the words "avoid, remedy or mitigate" rather than "avoid" which is too absolute. Such amendments will provide flexibility in the relevant policies and are more consistent with the language used in the Act.

In terms of other specific amendments the Commission concurs that the words "including tracking" are unnecessary in Policy 3.3 as the term "earthworks" includes tracks. A reference to dust plumes is no longer required in Policy 1.2 given that that policy is now expressed in more generic terms and refers to the adverse effects of earthworks without listing specific environmental protection measures.

The new policy requested by Queenstown Airport Corporation (49/46/3) was amended in the correspondence from Ms O'Sullivan for the submitter which was tabled at the hearing. The Commission is satisfied that this amended policy should appear as Policy 1.5.

Given that specific environmental protection measures are no longer to be listed in Policy 1.2 there is no need to further consider the amendments promoted by Blackmans Creek Holdings No 1 LP (49/1/12).

### **Recommendations**

1. That the submissions by Blackmans Creek Holdings No 1 LP (49/1/12) be **accepted in part**.
2. That the submissions by Blackmans Creek Holdings No 1 LP (49/1/6), Coronet Estates Ltd, Wakatipu Retreat Ltd, Malaghans Park Ltd, Arrowtown Downs Ltd (49/15/4), Cardrona Alpine Resort (49/26/2), Gibbston Valley Station (49/28/6), Lake Wakatipu Station Ltd (49/36/3), Mike Mee (49/41/3), Queenstown Airport Corporation (49/46/3), Queenstown Central Ltd (49/47/3), Queenstown Trails Trust (49/48/2), the Oil Companies (49/55/2, 49/55/3, 49/55/5-7) and Woodlot Properties (49/58/2) be **accepted in part**.

### **8.4.3 Landscapes**

#### **Issues and Discussion**

Blackmans Creek Holdings No 1 LP (49/1/3) and Gibbston Valley Station (49/28/3) request that Council delete Policies 2.1 - 2.4 and if necessary for clarity, cross reference the Part 4.2 District Wide objectives and policies relevant to landscape and visual amenity values. Cardrona Alpine Resort (49/26/4) promotes that Policies 2.1-2.4 be deleted.

The Commission considers that it is appropriate to retain Policies 2.1-2.4 (as amended) and notes that similar issues have been addressed in 8.3.3 above. As previously noted the Commission considers it appropriate to include a cross reference to the objectives and policies in Section 4.2 of the Operative District Plan as these are relevant to earthworks.

#### **Recommendations**

1. That the submissions by Blackmans Creek Holdings No 1 LP (49/1/3) and Gibbston Valley Station (49/28/3) be **accepted in part**.
2. That the submission by Cardrona Alpine Resort (49/26/4) be **rejected**.

### **8.4.4 Dewatering/Steeply Sloping Sites**

#### **Issues and Discussion**

Blackmans Creek Holdings No 1 LP (49/1/13) requests that the Council amend Policy 3.2 to read "...avoid or mitigate any adverse effects caused by de-watering". Cambricare NZ Ltd (49/18/3) and RCL Queenstown (49/49/4) also request amendments to ensure that there is no presumption against dewatering.

The Commission agrees that it is appropriate for Policy 3.2 to contain the words "... avoid, remedy or mitigate the adverse effects of de-watering".

Blackmans Creek Holdings No 1 LP (49/1/14) requests that the Council amend Policy 3.3 as follows (or similar) in order to acknowledge that it is impossible to avoid earthworks on steeply sloping sites and that such earthworks will not necessarily have adverse effects and to remove the contradiction between the first sentence, which requires avoidance, and the second sentence, which anticipates non-avoidance:

"To avoid the adverse effects of earthworks on steeply sloping sites, where land is prone to erosion or instability, where practicable. Where these effects cannot be avoided, to ensure techniques are adopted that minimise the potential to decrease land stability".

The Commission concurs with the submitter that Policy 3.3 is better worded as promoted by the submitter subject to minor amendments promoted in the context of other submissions. The Commission therefore considers that amended wording should be presented in Policy 3.3.

### **Recommendations**

1. That the submissions by Blackmans Creek Holdings No 1 LP (49/1/13), Cambricare NZ Ltd (49/18/3) and RCL Queenstown (49/49/4) be **accepted in part**.
2. That the submission by Blackmans Creek Holdings No 1 LP (49/1/14) be **accepted in part**.

### **8.4.5 Rural Areas**

#### **Issues and Discussion**

Blackmans Creek Holdings No 1 LP (49/1/15) requests that the heading of Policies 4.1 – 4.4 be amended to "Earthworks in the Rural General Zone" as they only apply to the Rural General Zone and the reference to Ski Area Sub-Zones is unnecessary because those sub-zones are located within the Rural General Zone. The submitter promotes that the reference in Policy 4.4 to "skifields" should be amended to read "recreational activities".

The relevant headings have been deleted in the version of PC 49 attached to the section 42A report. Accordingly the Commission does not consider it necessary to change the heading as proposed. Notwithstanding this it is noted that Objective 4 now specifically is to refer to the Rural General Zone, the Rural Visitor Zone and the Gibbston Character Zone as discussed in 8.3.5 above.

Given that the Ski Area Sub-Zones are to be subject to a separate objective Policy 4.4 is deleted. The Commission notes that Policy 4.3 [now Policy 4.4] refers to "earthworks associated with public recreation" which is consistent with the intent of the submission.

Te Anau Developments Ltd (49/54/3) requests amendments to Policies 4.1 to 4.4 to provide for earthworks for remedial flood defence. Ms Black emphasised at the hearing that the District Plan needs to allow for remedial defence earthworks to ensure that property and structures can be protected from damage during extreme weather events.

The Commission considers it appropriate to insert a new Policy 4.3 which states as follows:

"4.3 Provide for earthworks associated with remedial works necessitated by extreme weather events."

### **Recommendations**

1. That the submission by Blackmans Creek Holdings No 1 LP (49/1/15) be **accepted in part**.
2. That the submission by Te Anau Developments Ltd (49/54/3) be **accepted in part**.

## **8.4.6 Ski Areas**

### **Issues and Discussion**

Trojan Holdings Ltd (49/57/4) partly supports proposed Policy 4.4 as contained in notified PC 49 subject to it being amended as follows in order to provide clarification around landscape classifications:

*"To provide for earthworks that enable the growth, development and consolidation of ski-fields within Ski Area Sub-Zones and recognising these areas are exempt from the District Wide Landscape Classification criteria."*

As discussed in 8.3.6 above it is appropriate to have a separate objective which relates to development and operation of ski-fields within Ski Area Sub-Zones. Accordingly it is also appropriate that a new Policy 5.1 be included to provide for earthworks that enable the growth, development and consolidation of ski-fields.

### **Recommendation**

That the submission Trojan Holdings Ltd (49/57/4) be **accepted in part**.

## **8.4.7 Earthworks and Water Quality**

### **Issues and Discussion**

Blackmans Creek Holdings No 1 LP (49/1/16) raises concerns about Policies 5.2 and 5.3 (as notified) as follows:

- If the only concern about locating earthworks within close proximity to water bodies is sediment runoff, then Policy 5.1 fully addresses the issue and Policy 5.2 should be deleted, as there is no need to avoid earthworks if no adverse effects will arise. If Policy 5.2 is retained, then delete the second sentence as it repeats Policy 5.1.
- There is no need to list the four main aquifers in Policy 5.3 as they have already been noted in the final paragraph of Section 22.1. the reference to "...including....etc" can be deleted.

The Commission considers that Policies 5.1 and 5.2 can be consolidated into a single policy, now being Policy 6.1. This avoids unnecessary repetition and addresses the concerns of the submitter.

The Commission is satisfied that it is appropriate to name the four main aquifers in what is now Policy 6.2; and to make reference to "other lesser aquifers" consistent with the amendment made to Section 22.1 in 8.2.1 above.

The Otago Regional Council (49/44/4) raises issues regarding the notified provisions of PC 49 as follows:

- Policy 5.2 re the exclusion of cultivation, mining and cleanfills.
- Policy 5.3 re avoiding penetrating aquifers.
- The protection of the natural character of the margins of wetlands.

The Commission notes that cultivation and mining remain subject to rules and other provisions presented elsewhere in the District Plan, including those which relate to the Rural General Zone as presented in Section 5. Cleanfills are subject to a separate objective and policies (now Objective 8 and associated policies) in PC 49.

The Commission considers that it is appropriate to explicitly refer to avoiding earthworks which adversely affect aquifers in the new Policy 6.2 and an amendment is to be made to this effect.

The protection of the natural character of wetlands, lakes and rivers and their margins is a matter that is dealt with in Section 4.1 of the Operative District Plan.

### **Recommendations**

1. That the submission by Blackmans Creek Holdings No 1 LP (49/1/16) be **accepted in part**.
2. That the submission by the Otago Regional Council (49/44/4) be **accepted in part**.

### **8.4.8 Heritage New Zealand/Pouhere Taonga Act 2014**

#### **Issues and Discussion**

Heritage New Zealand (49/31/2) supports the plan change (subject to amendments) and seeks recognition of that organisation's new name (formerly New Zealand Historic Places Trust) in Policies 6.1-6.6. These policies are also supported by Kai Tahu ki Otago Ltd (49/33/3). Blackmans Creek Holdings No 1 LP (49/1/17) also requests reference to "Heritage New Zealand" and further requests that reference to the relevant legislation be updated to "Heritage New Zealand Pouhere Taonga Act 2014".

The Commission considers that it is appropriate to correctly refer to Heritage New Zealand in what is now Policy 7.2. The Commission also acknowledges that the correct reference should be made to the legislation which now first appears at Rule 22.3.1iii(a) in PC 49.

The relevant policies are now to be consolidated as Policies 7.1-7.4.

#### **Recommendation**

That the submissions by Heritage New Zealand (49/31/2), Kai Tahu ki Otago Ltd (49/33/3) and Blackmans Creek Holdings No 1 LP (49/1/17) be **accepted in part**.

## **8.5 General Provisions / Cross Referencing**

### **8.5.1 General**

#### **Issues and Discussion**

Blackmans Creek Holdings No 1 LP (49/1/18) considers that the heading to Rule 22.3.1, which reads "General Provisions/Cross Referencing" is confusing and would be better worded to read "Cross-Referencing/Other Legislation".

The heading for Rule 22.3.1 is consistent with headings used elsewhere in the District Plan being "General Provisions" or "Cross Referencing". The Commission is satisfied that the heading reasonably identifies the contents of Rule 22.3.1 and no amendment is therefore considered necessary.

#### **Recommendation**

That the submission by Blackmans Creek Holdings No 1 LP (49/1/18) be **rejected**.

## **8.5.2 Tangata Whenua**

### **Issues and Discussion**

Kai Tahu ki Otago Ltd (49/33/4) partly supports the section and requests that a reference to the Tangata Whenua Chapter be added to this section.

Section 4.3 acknowledges District Wide Issues of relevance to Takata Whenua. This section of the Operative District Plan does not contain rules and it is therefore inappropriate to include it in Rule 22.3.1i which relates to District Wide Rules. The Commission also notes that Rule 22.3.1i(a)(i) of the notified PC 49 refers to the “Statutory Acknowledgement” which is acknowledged in Section SA of the Operative District Plan. Again Section SA does not contain rules and on reflection the Statutory Acknowledgment should not be referred to in Rule 22.3.1i(a). Statutory Acknowledgment Areas are now specifically referred to in Site Standard 22.3.3vi(b) and in Assessment Matter 22.4vii(b) in PC 49.

The section 42A report informed the Commission that a discrete Tangata Whenua chapter being considered in the District Plan Review.

### **Recommendation**

That the submission by Kai Tahu ki Otago Ltd (49/33/4) be **rejected**.

## **8.5.3 Biodiversity**

### **Issues and Discussion**

The Otago Regional Council (49/44/5) requests clarification that earthworks relating to areas identified as containing indigenous biodiversity will be covered by other rules and so are not covered by PC 49.

Matters related to biodiversity, including Significant Indigenous Vegetation are addressed in Section 5 – Rural Areas of the District Plan, and Appendix 5 – Areas of Significant Indigenous Vegetation (which also relates to habitat of indigenous fauna) as referred to in Rule 22.3.1i(a)(ii) of notified PC 49.

The Commission confirms that earthworks affecting areas identified as containing indigenous biodiversity will be covered by other rules in Section 5. The Commission also considers that Rule 22.3.1i(a)(ii) [now to be (i)] should be amended to more accurately describe the provisions being cross referenced as follows:

“(i) Rural Areas (Section 5) and Appendix 5 for Areas of Significant Indigenous Vegetation.”

### **Recommendation**

That the submission by the Otago Regional Council (49/44/5) be **accepted in part**.

## **8.5.4 Subdivision**

### **Issues and Discussion**

Blackmans Creek Holdings No 1 LP (49/1/19) opposed by *Queenstown Airport Corporation* (49/46/1) requests amendments to Rule 22.3.1 ii (a), to read:

(i) That are approved as part of a subdivision consented under Rule 15.2.20; or..

(ii) That are approved as part of a subdivision consented prior to [date of release of Council decisions on submissions to PC49].

(iii) Earthworks associated with the construction of a house within an approved residential building platform.

The Commission considers that the amendments promoted by the submitter are appropriate albeit that some minor amendments are appropriate to enhance the presentation; with such provisions now to be included as Rule 22.3.2.1(e).

Trojan Holdings Ltd (49/57/7) supports the proposed Rule 22.3.1(ii)(a)(i) insofar as it specifies that the earthworks rules do not apply to earthworks approved as part of a subdivision approved as a controlled activity subdivision consent pursuant to new Rule 15.2.20. Shotover Park Ltd (49/52/5) also supports the clarification that earthworks undertaken as part of a subdivision are exempt from land use requirements for earthworks.

Queenstown Airport Corporation (49/46/4) observes that Rule 15.2.20 referred to in Rule 22.3.1ii does not exist in the District Plan and so the reference needs amending with the opportunity provided to reconsider this rule. The Commission notes that PC 49 provides for the insertion of the new Rule 15.2.20 Earthworks into Section 15 of the District Plan. Accordingly the reference to Rule 15.2.20 in Rule 22.3.1ii (in the notified PC 49) is correct and no amendment is required in terms of this submission point.

Remarkables Park Ltd (49/50/6) requests that, should the Council continue with PC49 as notified, that the earthworks provisions as they relate to subdivision within the RPZ remain unchanged.

Millbrook Country Club Ltd (49/42/2) has promoted that the provisions relating to bulk earthworks in the context of subdivision be deleted. The relevant rule is Rule 15.2.20.2 as introduced by the notified PC 49.

The Commission agrees that it would be inappropriate for earthworks associated with subdivision to be a full discretionary activity. Accordingly Rule 15.2.20.2 is to be amended to provide for earthworks associated with subdivision as a controlled activity.

## **Recommendations**

1. That the submission by Blackmans Creek Holdings No 1 LP (49/1/19) opposed by *Queenstown Airport Corporation (49/46/1)* be **accepted in part**.
2. That the submissions by Shotover Park Ltd (49/52/5) and Trojan Holdings Ltd (49/57/7) be **accepted in part**.
3. That the submission by Queenstown Airport Corporation (49/46/4) be **rejected**.
4. That the submission by Remarkables Park Ltd (49/50/6) be **accepted**.
5. That the submission by Millbrook Country Club Ltd (49/42/2) be **accepted in part**.

## **8.5.5 Noise**

### **Issues and Discussion**

Blackmans Creek Holdings No 1 LP (49/1/20) requests the deletion of Rule 22.3.1iii which relates to Noise on the basis that there is no need for a cross-reference here because the later rule is located in Section 22.

Site Standard 22.3.3vii relates to Construction Noise. In these circumstances the Commission considers that there is no need to include Rule 22.3.1iii as this simply duplicates another rule to the same effect ie. Site Standard 22.3.3vii.

### **Recommendation**

That the submission by Blackmans Creek Holdings No 1 LP (49/1/20) be **accepted**.

## **8.5.6 Archaeological Sites**

### **Issues and Discussion**

Blackmans Creek Holdings No 1 LP (49/1/21) partly opposed by *Heritage New Zealand (49/31/29)* requests clarification as follows in respect to Rule 22.3.1.iv Archaeological Sites:

- Because there is no definition of "archaeological sites", either in the District Plan or in the RMA, the first sentence of subparagraph a) is unclear, unnecessary, and potentially inaccurate and the second sentence adds nothing and therefore both should be deleted.
- Subparagraph (b) should be deleted as a) it appears to be a definition, and therefore is in the wrong place and b) is unnecessary.
- Subparagraph (c) is inappropriate and should be deleted as the statement is incorrect; there is already a cross-reference to Part 13 in Rule 22.3.1i(a)(i); and subparagraph (a) adequately deals with this issue.

The Commission agrees that Rule 22.3.1iv (now (iii)) requires substantial editing. Accordingly this rule is to read as follows:

***“(iii) Archaeological Sites***

- (a) *All archaeological sites within the District are protected from modification, damage or destruction by the Heritage New Zealand Pouhere Taonga Act 2014. An archaeological authority may need to be obtained from Heritage New Zealand prior to commencing earthworks.*
- (b) *Any item in the Inventory of Protected Features at Appendix 3 is subject to the rules in Section 13 of this Plan.”*

Heritage New Zealand (49/31/3) and Otago Regional Council (49/44/6) seek amendments to Rule 22.3.1iv to correctly refer to Heritage New Zealand and the relevant legislation being the Heritage New Zealand Pouhere Taonga Act 2014. The Commission considers that such amendments are appropriate and these have been incorporated into the new Rule 22.3.1iii as presented above.

### **Recommendations**

1. That the submission by Blackmans Creek Holdings No 1 LP (49/1/21) partly opposed by *Heritage New Zealand (49/31/29)* be **accepted in part**.
2. That the submissions by Heritage New Zealand (49/31/3) and Otago Regional Council (49/44/6) be **accepted**.

## **8.5.7 NES**

### **Issues and Discussion**

The Oil Companies (49/55/8) support the reference to the National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health Regulations 2011 in Rule 22.3.1v and request its retention without modification.

The Commission notes that the substance of Rule 22.3.1v is to be retained albeit that this is now to be presented as Rule 22.3.1iv as a consequence of the deletion of Rule 22.3.1iii Noise from PC 49 as notified.

### **Recommendation**

That the submission by The Oil Companies (49/55/8) be **accepted**.

## **8.6 Rules – Activities**

### **8.6.1 Exempt Earthworks**

#### **Issues and Discussion**

John Edmonds and Associates Ltd (49/32/6) requests that Council review the District Plan to identify all rules which already address earthworks and exempt these activities from having to be subject to further earthworks consents.

The submissions and evidence presented at the hearing, including the evidence of Mr Wells, has led the Commission to the conclusion that the earthworks rules which currently apply in the Special Zones as presented in Section 12 of the Operative District Plan are tailored to the requirements of those zones. The Commission does not consider that the Special Zones (apart from the Rural Visitor Zone) should be subject to the provisions introduced by PC 49 and this conclusion was supported by Mr Paetz and Mr Pickford at the hearing.

The Commission therefore considers that a new Rule 22.3.2.1(d) should be inserted as follows:

*“(d) Earthworks in any of the Special Zones that are listed in Section 12 of the District Plan except for the Rural Visitor Zone are exempt from the Rules in Section 22 of the District Plan.”*

The Commission acknowledges that many of the submissions referred to specific provisions in PC 49 as notified which were intended to apply with respect to Special Zones. The effect of the Commission’s recommendations is that there is no need to give further detailed consideration to those submissions as the status quo will be maintained with respect to the status of earthworks in those Special Zones. Accordingly the Commission does not propose to discuss the relevant submissions further notwithstanding the detailed consideration to them which was provided in the section 42A report.

#### **Recommendations**

1. That the submission by John Edmonds and Associates Ltd (49/32/6) be **accepted**.
2. That the submissions by Coronet View Holdings Ltd (49/2/31) and Jacks Point Residents and Owners Association Inc (49/5/31) be **accepted in part**.
3. That the submission by Shotover Country Ltd (49/51/1) be **accepted in part**.

4. That the submission by RCL Queenstown (49/49/7) be **accepted in part**.

## **8.6.2 Tracks**

### **Issues and Discussion**

Cardrona Alpine Resort (49/26/5) and Te Anau Developments Limited (49/54/6) oppose Rule 22.3.2.1(i) in notified PC 49 and request the deletion of the words "provided that the maintenance work results in less than a 10% increase in exposed surface area of that feature in any 10 year period".

Bruce McLeod (49/40/1) requests clarification of the application of Rule 22.3.2.1(b)(i), regarding the 10% limit, specifically whether it applies to all subclauses a) - e) in notified PC 49. The submitter considers that the 10% is too limiting for a farm track re-surfacing.

Blackmans Creek Holdings No 1 LP (49/1/22) requests that Rule 22.3.2.1(b)(i) should be amended by replacing the word "exposed" with "the".

Glen Dene Ltd (49/29/3) opposed by *Heritage New Zealand* (49/31/16), Coronet Estates Ltd, Wakatipu Retreat Ltd, Malaghans Park Ltd, and Arrowtown Downs Ltd (49/15/6 & 49/15/7) opposed by *Heritage New Zealand* (49/31/10 & 49/31/11), Remarkables Park Ltd (49/50/8) opposed by *Heritage New Zealand* (49/31/22), Lake Wakatipu Station Limited (49/36/5 & 49/36/6) opposed by *Heritage New Zealand* (49/31/17 & 49/31/18), Mike Mee (49/41/5 & 49/41/6) opposed by *Heritage New Zealand* (49/31/19 & 49/31/20) comment on the need to expand the exemption for maintenance to tracks for both farming operations and public recreation, to include the creation of new tracks.

Queenstown Trails Trust (49/48/3) opposed by *Heritage New Zealand* (49/31/21) also requests that Rule 22.3.2.1(b) is supported but should be expanded to include the construction of all new public recreational trails on Queenstown Lakes District Council or Crown Land or on an easement registered over private land in favour of the Queenstown Lakes District Council, the Crown, or the QEII Trust or any of its entities. The Trust opines that as currently drafted, the rule does not go far enough to achieve Policy 4.3.

Heritage New Zealand's further submissions are based on its concern that farm tracks and recreational trails have the potential to adversely affect heritage values. Heritage New Zealand supports the proposed rules that allow for some maintenance of farm access tracks and recreational tracks as a permitted activity; and the requirement for a resource consent where larger volume earthworks are involved.

The Commission considers that it is reasonable to provide for earthworks associated with the maintenance of farm track access, fencing, fire breaks, and public recreational tracks as a permitted activity and notes that provision is made for the routine repair and maintenance of operational tracks in terms of the Operative District Plan. The Commission also acknowledges the practical difficulty of determining whether such maintenance work results in less than a 10% increase in the exposed surface area in any 10 year period. In all the circumstances the Commission considers it appropriate to delete this proviso from the amended Rule 22.3.2.1(b). The Commission also acknowledges that the section 42A report recommended some consolidation of the provisions of this rule when compared to Rule 22.3.2.1(b) as contained in the notified PC 49.

New tracks, whether for farming or recreational use, may have significant adverse effects, especially given the sensitivity of the District's landscapes. Whilst acknowledging that the development of new tracks is likely to be of value to the District, requiring consent for these new activities is justified, given the sensitive receiving environments which include

important landscapes. The Commission also notes for completeness that an allowance of up to 1000m<sup>3</sup> per year is provided for in Table 22.1 for earthworks in the Rural General Zone.

### **Recommendations**

1. That the submissions by Cardrona Alpine Resort (49/26/5) and Te Anau Developments Limited (49/54/6) be **accepted**.
2. That the submission by Blackmans Creek Holdings No 1 LP (49/1/22) and by Bruce McLeod (49/40/1) be **accepted in part**.
3. That the submissions by Glen Dene Ltd (49/29/3) opposed by *Heritage New Zealand* (49/31/16), Coronet Estates Ltd, Wakatipu Retreat Ltd, Malaghans Park Ltd, and Arrowtown Downs Ltd (49/15/6 & 49/15/7) opposed by *Heritage New Zealand* (49/31/10 & 49/31/11), Remarkables Park Ltd (49/50/8) opposed by *Heritage New Zealand* (49/31/22), Lake Wakatipu Station Limited (49/36/5 & 49/36/6) opposed by *Heritage New Zealand* (49/31/17 & 49/31/18), Mike Mee (49/41/5 & 49/41/6) opposed by *Heritage New Zealand* (49/31/19 & 49/31/20) and Queenstown Trails Trust (49/48/3) opposed by *Heritage New Zealand* (49/31/21) be **rejected**.

### **8.6.3 NES**

#### **Issue and Discussion**

The Oil Companies (49/55/9) support the retention of Rule 22.3.2.1 (b) (ii). without amendment. This provision is included to align with the requirements of the Resource Management (National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health) Regulations 2011; and the only amendment required is to correctly refer to the name of the NES.

#### **Recommendation**

1. That the submission by The Oil Companies (49/55/9) be **accepted in part**.

### **8.6.4 Emergency Works**

#### **Issue and Discussion**

Te Anau Developments Limited (49/54/7) requests an amendment to Rule 22.3.2.1(b)i(e) to include earthwork activities associated with the construction of rock culverts, rock armouring and deepening stream beds to divert the scree, water and rocks away from the structures.

The Commission acknowledges the concerns as expressed by Ms Black at the hearing with respect to the need for the District Plan to allow earthworks to ensure that property and structures can be protected from damage during extreme weather events; and earthworks of a remedial nature. In particular she noted the large volumes of scree and boulders that are brought down by mainly flood events above the Colonels Homestead at Walter Peak.

In all the circumstances the Commission considers that it is reasonable to provide an exemption for such earthworks in Rule 22.3.2.1(b) by inserting a new subclause (iii) as follows:

- “(iii) Earthworks that are necessary to ensure that property and structures are protected from damage during extreme weather events and earthworks of a remedial nature that are necessary following such extreme weather events.”*

## **Recommendation**

1. That the submission by Te Anau Developments Limited (49/54/7) be **accepted in part**.

## **8.6.5 Ski Area Sub-Zones**

### **Issues and Discussion**

Several submissions request a reappraisal of the imposition of more stringent rules relating to earthworks in the context of the Ski Area Sub-Zones.

Blackmans Creek Holdings No 1 LP (49/1/31), Glencoe Land Development Company Ltd (49/3/31), Real Journeys Limited (49/12/31), Glencoe Station Ltd (49/4/31), Cardrona Alpine Resort (49/26/5) and Treble Cone Investments Limited (49/14/31) request a number of amendments to the notified PC 49 as follows:

- Amend Rule 22.3.2.1(b) by amending subclause (i) by deleting subclause (e) relating to trails and operational areas within Ski Area Sub-Zones.
- Delete Rule 22.3.2.1(c)(i) relating to approvals by the Department of Conservation.
- Amend Rule 22.3.2.1(c)(ii) by exempting earthworks within Ski Area Sub-Zones from Rule 22.3.2.4(b) and Rule 22.3.3.
- Make any other amendments that are required to ensure that all earthworks within a Ski Area Sub-Zone are a permitted activity.

Glencoe Station Limited (49/30/3) requests that Rule 22.3.2.1(c)(ii) be modified to exempt all earthworks and bulk earthworks undertaken in Ski Area Sub-Zones where those works also trigger a requirement for resource consent under the clearance of indigenous vegetation under either Rule 5.3.5.1x or 5.3.5.1xii from the following rules and standards that apply to earthworks, being:

- Rule 22.3.2.4 (b) - Bulk Earthworks.
- Rule 22.3.3 (i) (a) - (c) - Volumes
- Rule 22.3.3 (ii) (a) - Height of Cut and Fill

Southern Hemisphere Proving Grounds (49/53/2) requests the same amendments as above (for 49/4/31) or that Council modify Rule 22.3.2.4 (b) re Bulk Earthworks to exempt all earthworks undertaken within a Ski Area Sub-Zone. Glencoe Station Limited (49/30/4) also requests that Rule 22.3.2.4(b) is modified to exempt all earthworks undertaken within a Ski Area Sub-Zone.

Trojan Holdings Ltd (49/57/1) partly supports the rules but requests an amendment to proposed Rule 22.3.2.1(c)(i) to read:

- "(i) Earthworks and bulk earthworks carried out in accordance with any relevant Conservation Management Plan or Strategy or Concession approved by Department of Conservation."

This would specifically accommodate the submitter's interests as there is currently no Conservation Management Plan that applies to its ski-field areas.

The evidence and submissions presented at the hearing have demonstrated that substantial earthworks are required within the Ski Area Sub-Zones, particularly associated with creating dams for snowmaking as well as for other ski-field related purposes. Earthworks are also required to accommodate other forms of recreational activity including cycle and walking tracks.

The Commission also acknowledges that the rules in the Operative District Plan exempt earthworks within the Ski Area Sub-Zone from the relevant earthworks rules.

In all the circumstances the Commission considers that the earthworks within the Ski Area Sub-Zones should be exempt from the rules in Section 22 as introduced by PC 49.

As a consequence Rule 22.3.2.1(c) is to be amended to read as follows.

*“Earthworks in the **Ski Area Sub-Zones** are exempt from the rules in Section 22 of the District Plan.”*

## **Recommendations**

1. That the submissions by Blackmans Creek Holdings No 1 LP (49/1/31), Glencoe Land Development Company Ltd (49/3/31), Real Journeys Limited (49/12/31), Glencoe Station Ltd (49/4/31), Cardrona Alpine Resort (49/26/5) and Treble Cone Investments Limited (49/14/31) be **accepted in part**.
2. That the submissions by Glencoe Station Limited (49/30/3 & 49/30/4), Southern Hemisphere Proving Grounds (49/53/2) and Trojan Holdings Limited (49/57/1) be **accepted in part**.

## **8.6.6 Controlled Activities**

### **Issues and Discussion**

Heritage New Zealand (49/31/4) supports the retention of Rule 22.3.2.2(c)(vii). This rule lists matters of control with respect to earthworks in the Jacks Point Zone. Given that the rules in Section 22 are not to relate to the Special Zones (with the exception of the Rural Visitor Zone) the matters for discretion listed in Rule 22.3.2.2(c) are now only to apply in the context of the Open Space Zone in what is now Rule 22.3.2.2(a).

Bruce McLeod (49/40/2) questions the enforceability of Rule 22.3.2.2(d)(iii) as if Council deems the cumulative effect of a proposed track is not appropriate, how can it be declined if it is controlled. The intent of Rule 22.3.2.2(d)(iii) [now 22.3.2.2(a)(xii)] is to address cumulative effects associated with the number of other trails within the Open Space Zone. This matter could be addressed, say, by applying a condition which limits the formation of portions of cycling and walking trails; as refusal is not an option for a controlled activity. The Commission is satisfied that such a provision is appropriate.

Otago Regional Council (49/44/7) requests that the effects of earthworks on the natural character of wetlands, lakes and rivers and their margins should be a matter over which Council reserves control for controlled activities. The submitter also suggests that with regard to Open Space Zones, if there is any intention to increase the application of this zone, it may be appropriate to include other matters over which Council has reserved control, in particular the effects on water bodies and natural character.

Rule 22.3.2.2(d) in notified PC 49 referred to “Additional Matters” for control, implying that those matters previously listed in Rule 22.3.2.2(c) were also relevant to the Open Space Zone. The Commission considers it appropriate to include an additional matter for control in what is now Rule 22.3.2.2(ix) being :

“(ix) The effects of earthworks on the natural character of wetlands, lakes and rivers and their margins.”

The effect of this recommendation is that the additional matter for which the Council has reserved control will apply to the Open Space Zone as sought by the submitter.

### **Recommendations**

1. That the submission by Heritage New Zealand (49/31/4) as it relates to Rule 22.3.2.2(c)(vii) be **accepted in part**.
2. That the submission by Bruce McLeod (49/40/2) be **accepted in part** to the extent that what is now Rule 22.3.2.2(a)(xii) is amended.
3. That the submission by the Otago Regional Council (49/44/7) is **accepted**.

### **8.6.7 Restricted Discretionary Activities**

#### **Issues and Discussion**

Heritage New Zealand (49/31/4) supports the retention of Rule 22.3.2.3(b)(vii); and Kai Tahu ki Otago Ltd (49/33/5) supports the retention of Rule 22.3.2.3 Restricted Discretionary Activities and the fact Council has reserved discretion over the effects of earthworks activities on cultural and archaeological sites [in Rule 22.3.2.3(vii)].

John Edmonds and Associates Ltd (49/32/13) supported in part by *Queenstown Airport Corporation* (49/46/39) requests that the Council remove or refine the wording with respect to Environmental protection measures when listed as matters of control [sic – discretion].

The Commission notes that Section 22 (in Site Standard 22.3.3iv) lists what constitutes “Environmental Protection Measures”. Accordingly this terminology is considered appropriate in Rule 22.3.2.3(b)(ii).

Blackmans Creek Holdings No 1 LP (49/1/23) requests that Council clarify why the words in Rule 22.3.2.3(b)(i) and (vii) [and Rule 22.3.2.2(c)(ii) and (vii)] are capitalised, or amend them.

There is no particular reason why these words should be capitalised and accordingly the relevant provisions are to be presented as follows:

(ii) Environmental protection measures

(vii) The effects on cultural and archaeological sites

### **Recommendations**

1. That the submission by Heritage New Zealand (49/31/4) as it relates to Rule 22.3.2.3(b)(vii) and the submission by Kai Tahu ki Otago Ltd (49/33/5) be **accepted**.
2. That the submission by John Edmonds and Associates Ltd (49/32/13) supported in part by *Queenstown Airport Corporation* (49/46/39) be **rejected**.

3. That the submission by Blackmans Creek Holdings No 1 LP (49/1/23) be **accepted**.

### **8.6.8 Transmission Lines**

#### **Issues and Discussion**

Transpower New Zealand Ltd (49/56/1) supports the retention of Rule 22.3.2.3 (a) as notified. Transpower New Zealand Ltd (49/56/2) requests the deletion of Rule 22.3.2.3(c) which relates to the Shotover Country Special Zone.

The Commission has determined in 8.6.1 (above) that Special Zones apart from the Rural Visitor Zone should be exempt the rules in Section 22 and Rule 22.3.2.3(c) is therefore redundant.

Transpower New Zealand Ltd (49/56/3) promotes that the matters for discretion in Rule 22.3.2.3(d) be amended to read as follows:

"(d) The matters in respect of which the Council has reserved discretion for earthworks that do not comply with Site Standard 22.3.3. viii (a) relating to the National Grid Electricity Line are:

- (i) The extent of earthworks required, and use of mobile machinery near the National Grid electricity line which may put the line at risk;
- (ii) Effects on the integrity of the national Grid electricity line;
- (iii) Volume, area and location of the works, including temporary activities such as stockpiles;
- (iv) Time of the works;
- (v) Site remediation;
- (vi) The use of mobile machinery near the transmission line which may put the line at risk;
- (vii) Extent of compliance with the New Zealand Electrical Code of Practice for Electrical Safe Distances (NZECP 34: 2001)."

The Commission considers that the proposed Rule 22.3.2.3(d) as presented above is unnecessary given that any breach of Site Standard 22.3.3.viii(a) is to be a non-complying activity.

Transpower New Zealand Ltd (49/56/4) requests the insertion of a new non-complying Rule 22.3.2.5 (c) as follows:

"Cromwell - Frankton A National Grid Electricity Line  
(c) Any earthworks, cleanfill or mining activity which do not comply with Site Standard 22.3.3 viii (a)(ii) or 22.3.3 viii (a)(iii)."

Ms Shand for Transpower stated in correspondence tabled at the hearing that the non-complying rule is necessary. The Commission acknowledges that the Cromwell-Frankton A National Grid Electricity Line is the only transmission line going into Queenstown and if it is undermined this could result in an outage for Queenstown and the wider District. The Commission agrees with the submitter that given the significance of this line non-complying activity status is appropriate.

Mr Pickard noted that the rule suggested by Transpower rule refers to only two of the three elements in Site Standard 22.3.3.viii(a). The Commission agrees with Mr Pickard that a

breach of any of the three elements in Site Standard 22.3.3viii(a) should be a non-complying activity.

Accordingly the Commission considers that Rule 22.3.2.5(c) should state as follows:

**"Cromwell - Frankton A National Grid Electricity Line**

(c) Any earthworks, cleanfill or mining activity which does not comply with Rule 22.3.3 viii(i) – (iii) with respect to the Cromwell-Frankton A National Grid Electricity Line."

**Recommendations**

1. That the submission by Transpower New Zealand Ltd (49/56/1 & 49/56/2) be **accepted**.
2. That the submission by Transpower New Zealand Ltd (49/56/3) be **rejected**.
3. That the submission by Transpower New Zealand Ltd (49/56/4) be **accepted in part**.

**8.6.9 Cleanfill Facilities**

**Issues and Discussion**

Mark Kunath (49/35/3) requests that the full cost of additional maintenance and renewals brought forward for the road asset, beyond current heavy vehicle numbers, be paid for by the holders of a cleanfill facility resource consent through a condition on their consent or a targeted transport rate on the cleanfill facility land.

Provision is made for the creation of new Cleanfill Facilities in Rule 22.3.2.4(a) as an unrestricted discretionary activity. Accordingly all effects on the environment including those referred to in the Assessment Matters at 22.4ix can be taken into consideration, and conditions of consent applied as appropriate. The Commission acknowledges however that the power to impose conditions on a resource consent is not unlimited. To be valid at law, a condition must:

- (i) Be for a resource management purpose, not for an ulterior one;
- (ii) Fairly and reasonably relate to the development authorised by the consent to which the condition is attached; and
- (iii) Not be so unreasonable that a reasonable planning authority, duly appreciating its statutory duties, could not have approved it.

The above are known as the *Newbury* tests which have been refined through subsequent caselaw.

For completeness the Commission notes that any issue with respect to a "targeted transport rate" falls beyond the scope of PC 49.

The Commission has concluded that no amendment is required in terms of the submission.

**Recommendation**

1. That the submission by Mark Kunath (49/35/3) be **rejected**.

## **8.6.10 Bulk Earthworks**

### **Issues and Discussion**

Blackmans Creek Holdings No 1 LP (49/1/10), Cambricare NZ Ltd (49/18/5), Cardrona Alpine Resort (49/26/6), Gibbston Valley Station (49/28/8) and Te Anau Developments Ltd (49/54/9) oppose Rule 22.3.2.4(b) Bulk Earthworks and all other plan provisions relating to that consent category, and request that they be deleted. RCL Queenstown (49/49/1) also opposes this particular provision and requests that rules relating to bulk earthworks be deleted from the earthworks and subdivision sections [the latter being addressed in 8.5.4].

Remarkables Park Ltd (49/50/5) and Shotover Park Ltd (49/52/6) request that further consideration be given to the effectiveness of the new discretionary rule for bulk earthworks. Queenstown Central Ltd (49/47/5) also opposes the full discretionary status and promotes that restricted discretionary is more appropriate.

Millbrook Country Club Ltd (49/42/2) opposes the rules relating to bulk earthworks and requests their deletion; and promotes that provision be made for specific allowances for golf course maintenance, as follows:

- Delete provisions relating to bulk earthworks in both the proposed Earthworks section and Subdivision.
- Create specific rules enabling large scale earthworks in relation to golf course maintenance and development for the Millbrook section of the Resort Zone.

The section 42A report informed the Commission that while the 50,000m<sup>3</sup> trigger is an arbitrary figure it is a reasonable reflection of the scale of earthworks that occurs within the District. Earthworks on this scale can have a range of effects including: traffic generation, dust, noise, vibration, visual and stability effects. Whilst some of these effects are dealt with individually under Site Standards, the scale of the effects of bulk earthworks require particular attention. Given the variety of effects that may be associated with such activities, and the wide range of environments within which they may occur, the unrestricted discretionary activity status is appropriate.

As a consequence of the Commission's recommendation in 8.6.1 Special Zones (apart from the Rural Visitor Zone) will be exempt the rules in Section 22. Accordingly there is no need to provide specific rules enabling large scale earthworks in relation to golf course maintenance and development at Millbrook (which is a Special Zone).

### **Recommendations**

1. That the submissions by Blackmans Creek Holdings No 1 LP (49/1/10), Cambricare NZ Ltd (49/18/5), Cardrona Alpine Resort (49/26/6), Gibbston Valley Station (49/28/8), RCL Queenstown (49/49/1) and Te Anau Developments Ltd (49/54/9) be **rejected**.
2. That the submissions by Millbrook Country Club Ltd (49/42/2), Remarkables Park Ltd (49/50/5) and Shotover Park Ltd (49/52/6) be **accepted in part**.
3. That the submission by Queenstown Central Ltd (49/47/5) be **rejected**.

## **8.6.11      General**

### **Issues and Discussion**

Cambricare NZ Ltd (49/18/5) and Barley Station Ltd (49/21/5) question the justification for the levels of activities with a clear preference for controlled activities over restricted and full discretionary. The submitters consider that this would be more enabling. They also request that further consideration be given to whether more enabling rules are appropriate than are currently proposed to be provided for as part of maintenance exemptions under Rule 22.3.2.1 (b) in order to allow normal rural activities.

The Commission considers that the provisions of PC 49 as attached at Appendix 1 to this report are enabling and provide for various earthworks activities to have the appropriate status in the resource consent hierarchy. Amendments made in 8.6.2 (above) will provide greater flexibility with respect to earthworks associated with normal rural activities such as farm track access, fencing, fire breaks and recreational tracks.

John Edmonds and Associates Ltd (49/32/7) requests further consideration of the activity status of cleanfill facilities, bulk earthworks and earthworks in the Jacks Point Zone (Rule 22.3.2.4) and subdivisions involving 'bulk earthworks' and reducing them to controlled or restricted discretionary status. Further, the same submitter at 49/32/11 also requests that the Council consider reducing the activity status of those earthworks consents proposed to be restricted discretionary to controlled activity status.

Queenstown Airport Corporation (49/46/5) takes a contrary position and supports the provisions as proposed, specifically the retention of the cascading rule structure proposed (Rules 22.3.2.2-4).

The Commission is satisfied with the status of cleanfill facilities and bulk earthworks as provided for in PC 49. The bulk earthworks issue has been addressed in 8.6.10 above. The Commission also acknowledges that the Jacks Point Zone (being a Special Zone) is now to be exempt the rules in Section 22.

The Commission does not consider it appropriate to provide controlled activity status for earthworks consents beyond that specified at Appendix 1 to this report. The consent authority must grant consent to a controlled activity and this may not be appropriate for earthworks which have a significant adverse effect on the environment. The Commission is satisfied that the rules as attached to this report at Appendix 1 provide sufficient flexibility while enabling the effects of a wide range of earthworks to be properly considered and addressed in the consent process.

### **Recommendations**

1. That the submissions by Cambricare NZ Ltd (49/18/5) and Barley Station Ltd (49/21/5) be **accepted in part**.
2. That the submission by John Edmonds and Associates Ltd (49/32/7 & 49/32/11) be **accepted in part**.
3. That the submission by Queenstown Airport Corporation (49/46/5) be **accepted in part**.

## 8.7 Non-Notification

### 8.7.1 General

#### Issues and Discussion

Blackmans Creek Holdings No 1 LP (49/1/11) opposed by *Queenstown Airport Corporation (49/46/15)* and Gibbston Valley Station (49/28/10) opposed by *Queenstown Airport Corporation (49/46/17)* requests that Council amend Rule 22.3.2.6 in order to:

- Simplify the rule (the submitter noting that it is currently badly drafted and difficult to understand); and to
- Provide for a default position that applications for consent for earthworks do not need to be notified (possibly subject to exceptions), noting that the primary exception would be a breach of the height of cut and fill slope, in which case the starting presumption should be limited notification to the relevant adjoining landowner.

The Commission notes that Rule 22.3.2.6(a)(iv) as presented in notified PC 49 contains a presumption to non-notification. The Commission agrees that the rule can be better worded as detailed at Appendix 3.

Cambricare NZ Ltd (49/18/8), Barley Station Ltd (49/21/4), Queenstown Central Limited (49/47/4) opposed by *Queenstown Airport Corporation (49/46/28)* and RCL Queenstown (49/49/6) promotes that all restricted discretionary earthworks applications should be able to be dealt with on a non-notified basis without the need for written approvals. The Commission again acknowledges in this context that Rule 22.3.2.6 contains a presumption towards non-notification.

John Edmonds and Associates Ltd (49/32/10) requests that Council consider making applications for earthworks near a boundary an activity that cannot be notified in accordance with Rule 22.3.2.6. The Commission notes that Rule 22.3.2.6(a)(iv) as contained in notified PC 49 identifies the potential for notification where earthworks occur within the required building setback from an internal or road boundary. In these circumstances limited notification (at least) may be appropriate where others are affected. The Commission is satisfied that this provision should stand (as amended at Appendix 3).

Mount Farm Ventures Ltd (49/43/2) opposed in part by *Queenstown Airport Corporation (49/46/26)* partly supports the provision at Rule 22.3.2.6(a) but requests an amendment to add the following clause:

“(v) Any earthworks undertaken within and confined to an approved residential building platform located within the Bendemeer Special Zone”.

Special Zones (apart from the Rural Visitor Zone) are to be exempt the rules in Section 22. Accordingly there is no need to make reference to the Bendemeer Special Zone in Rule 22.3.2.6.

The Commission notes that the Rural Visitor Zones are to be subject to Section 22; and the presumption towards non-notification will apply with respect to earthworks in the Rural Visitor Zones. This is consistent with the approach which will apply to earthworks in the Rural General Zone.

Te Anau Developments Ltd (49/54/11) opposed by *Queenstown Airport Corporation (49/46/33)* request that Rural Visitor Zones be included in proposed Rule 22.3.2.6 (a) regarding non-notification.

Mark Kunath (49/35/2) requests that all applications for new cleanfill facilities are publicly notified because of the huge impact that the truck movements have on adjoining properties. The Commission does not consider that it is appropriate to require that all such applications be publicly notified. The matter of notification, limited notification and non-notification is a matter to be addressed having regard to the relevant provisions of the Act.

## **Recommendations**

1. That the submissions by Blackmans Creek Holdings No 1 LP (49/1/11) opposed by *Queenstown Airport Corporation (49/46/15)* and *Gibbston Valley Station (49/28/10)* opposed by *Queenstown Airport Corporation (49/46/17)* be **accepted in part**.
2. That the submissions by *Cambricare NZ Ltd (49/18/8)*, *Barley Station Ltd (49/21/4)*, *Queenstown Central Limited (49/47/4)* opposed by *Queenstown Airport Corporation (49/46/28)* and *RCL Queenstown (49/49/6)* be **accepted in part**.
3. That the submission by *John Edmonds and Associates Ltd (49/32/10)* be **rejected**.
4. That the submission by *Mount Farm Ventures Ltd (49/43/2)* opposed in part by *Queenstown Airport Corporation (49/46/26)* be **accepted in part**.
5. That the submission by *Te Anau Developments Ltd (49/54/11)* opposed by *Queenstown Airport Corporation (49/46/33)* be **accepted in part**.
6. That the submission by *Mark Kunath (49/35/2)* be **rejected**.

## **8.7.2 Airports**

### **Issues and Discussion**

*Queenstown Airport Corporation (49/46/6)* opposes the non-notification rule being Rule 22.3.2.6 and requests that the *Queenstown Airport Corporation* be notified or its approval sought for all earthworks applications in the vicinity of *Queenstown* and *Wanaka Obstacle Limitation Surface (OLS)* designations.

*Queenstown Airport Corporation* also opposes in part all the following submissions (some of which are acknowledged in 8.7.1 above and 8.7.3 below) for the reasons expressed above:

49/1/11 in 49/46/15  
49/2/11 in 49/46/16  
49/28/10 in 49/46/17  
49/3/11 in 49/46/18  
49/4/11 in 49/46/19  
49/30/5 in 49/46/20  
49/5/11 in 49/46/21  
49/6/11 in 49/46/22  
49/7/11 in 49/46/23  
49/8/11 in 49/46/24  
49/9/11 in 49/46/25  
49/43/2 in 49/46/26  
49/10/11 in 49/46/27

49/47/4 in 49/46/28  
49/11/11 in 49/46/29  
49/12/11 in 49/46/30  
49/53/4 in 49/46/31  
49/13/11 in 49/46/32  
49/54/11 in 49/46/33  
49/14/11 in 49/46/34

Correspondence from Ms O’Sullivan for the Queenstown Airport Corporation advised that, on reflection, the submitter now seeks an alternative relief with respect to including a provision in Section 22.3.1(i) that contains District Wide Rules. The Commission agrees that an alternative provision (subject to further amendment as discussed below) is appropriate and as a consequence no further amendment is required to Rule 22.3.2.6.

The Commission has given consideration to the wording of the alternative provision as suggested by the submitter which stipulates that “...Any plant or machinery used to undertake earthworks shall not penetrate the surfaces outlined in .... [Figures 1 to 4]... and further described in Designations D.3 and E.2 without the prior approval of the respective requiring authority and the Civil Aviation Authority.”

Designations D.3 and E.2 detail Airport Approach and Land Use Controls for Queenstown and Wanaka Airports, respectively. The Commission considers that land use activity is satisfactorily controlled by these designations and by the relevant provisions of the Act, particularly sections 9(4) and 176(1)(b) as informed by the definition of “use” in section 2. Accordingly the Commission considers that the new item (c) to be inserted in Rule 22.3.1(i) should draw attention to the relevant designations and should promote consultation with the relevant agencies only. This is consistent with other provisions in Rule 22.3.1.

The Commission notes that the introduction of a specific rule relating to “plant or machinery” in Rule 22.3.1(i) may result in difficulties with respect to plan interpretation, given that the term “plant and machinery” is not explicitly used in Designations D.3 and E.2 which control a range of activities in the vicinity of Queenstown and Wanaka Airports.

For completeness the Commission acknowledges that no specific reference is made to the Airport Protection Inner Horizontal and Conical Surfaces for Queenstown and Wanaka Airports in the context of the existing rules which relate to earthworks in the Operative District Plan. The provision as presented in Appendix 3 is an improvement on the status quo as cross referencing is now to be provided to Designation D.3 and Designation E.2 in the context of provisions relating to earthworks.

As a consequence the Commission considers it appropriate to make provision for an alternative amendment which is to amend Rule 22.3.1(i) to include a new item (c) as follows:

- (c) *Figures 1 to 4 of the District Plan identify the Airport Protection Inner Horizontal and Conical Surfaces for Queenstown and Wanaka Airports and these surfaces are further described in Designations D.3 and E.2. Those who wish to undertake earthworks in the vicinity of Queenstown and Wanaka Airports are advised to consult with the relevant requiring authority and the Civil Aviation Authority.*

## **Recommendation**

1. That the submission by Queenstown Airport Corporation (49/46/6) be **accepted in part.**

### **8.7.3 Ski Area Sub-Zones**

#### **Issues and Discussion**

Glencoe Station Limited (49/30/5) opposed in part by *Queenstown Airport Corporation (49/46/20)* and Southern Hemisphere Proving Grounds (49/53/4) opposed in part by *Queenstown Airport Corporation (49/46/31)* oppose Rule 22.3.2.6(a)(iii) as notified and request that the rule be amended to include all earthworks and bulk earthworks undertaken within a Ski Area Sub-Zone.

The Commission has determined that earthworks in the Ski Area Sub-Zones are to be exempt from the rules contained in Section 22. Accordingly there is no need to refer to the Ski Area Sub-Zone in Rule 22.3.2.6.

#### **Recommendation**

1. That the submissions by Glencoe Station Limited (49/30/5) opposed in part by *Queenstown Airport Corporation (49/46/20)* and Southern Hemisphere Proving Grounds (49/53/4) opposed in part by *Queenstown Airport Corporation (49/46/31)* be **accepted in part**.

## **8.8 Site Standards**

### **8.8.1 Landscape / Volume of Earthworks**

#### **Issues and Discussion**

Barley Station Ltd (49/21/8) opposed by *Heritage New Zealand (49/31/28)*, Halfway Bay Station, Allendale Farm and Greenvale Farm ('Halfway Bay') (49/23/8) opposed by *Heritage New Zealand (49/31/27)* and Royalburn Farm (49/25/8) opposed by *Heritage New Zealand (49/31/26)* oppose the volume limits specific to Outstanding Natural Landscapes, Outstanding Natural Features and Heritage Landscapes and promote that these be deleted. Heritage New Zealand considers it appropriate to retain the volume triggers in Heritage Landscapes.

Blackmans Creek Holdings No 1 LP (49/1/9) request that Council amend or delete any rules which purport to determine consent activity status as a consequence of the relevant earthworks activity being located within an ONL or an ONF; or if this is legally valid, defer the operative date of any such rules until a review of the District Plan identifies the ONL/ONF boundaries as part of the District Plan. At the hearing Mr Goldsmith, for the submitter, submitted that on reflection the latter is not a sound alternative.

The Operative District Plan does not formally determine the extent and boundaries of ONLs and ONFs. The Landscape Category Maps contained in the District Plan can be amended from time to time as a result of Environment Court consent decisions; and certain changes can be made at the Council resource consent stage. Given the uncertainty associated with the precise definition of the ONL/ONF boundaries the Commission does not consider it appropriate to include reference to Outstanding Natural Landscapes and Outstanding Natural Features in Table 22.1. The Commission notes that rules in the Operative District Plan do not refer to Outstanding Natural Landscapes and Outstanding Natural Features; and that reference is made to such landscape categories in the context of policies and assessment matters only.

The Commission emphasises in this context that PC 49 is a plan change to the Operative District Plan. Accordingly it is not appropriate to anticipate provisions which may or may not be included in the District Plan Review in the context of PC 49.

Heritage Landscapes are defined in Appendix 10 of the Operative District Plan albeit with indicative boundaries. Accordingly the Commission considers that it is appropriate to refer to Heritage Landscapes in Table 22.1.

## Recommendations

1. That the submissions by Barley Station Ltd (49/21/8) opposed by *Heritage New Zealand (49/31/28)*, Halfway Bay Station, Allendale Farm and Greenvale Farm ('Halfway Bay') (49/23/8) opposed by *Heritage New Zealand (49/31/27)* and Royalburn Farm (49/25/8) opposed by *Heritage New Zealand (49/31/26)* be **accepted in part**.
2. That the submission by Blackmans Creek Holdings No 1 LP (49/1/9) be **accepted**.

### 8.8.2 Cut, Fill and Slope

#### Issues and Discussion

Cambricare NZ Ltd (49/18/4) opposed by *Heritage New Zealand (49/31/1)*, Barley Station Ltd (49/21/3) opposed by *Heritage New Zealand (49/31/4)* and RCL Queenstown (49/49/5) request that the following rules be either deleted, made more enabling or that a justification for the proposed restriction on earthworks be adequately provided:

- Rule 22.3.3.i(a) - Volume of Earthworks.
- Rule 22.3.3 ii (b) (i) and (ii) – Height of cut and fill and slope.
- Rule 22.3.3 ii (b)(iii) restrictions on earthworks near boundaries.

Heritage New Zealand considers the volume triggers to be worthwhile in order to allow an assessment against cultural and heritage values where they exist.

Mr Pickard's section 42A report advised that the use of volume controls is an acceptable and reasonable measure. Mr Pickard accepted that there are possibly other controls which could be applied; but that none are provided or justified by any submitter. The Commission concurs and considers that Site Standards 22.3.3i and ii should stand, subject to the specific amendments recommended in this report.

McAuliffe Stevens Registered Architects (49/39/1) seeks that if Rule 22.3.3ii(a)(ii) is applicable then the top of a cut batter or bottom of a fill batter should be allowed to adjoin a site boundary with 300mm offset dimension. The submitter considers that proposed Rule 22.3.3ii(b)(iii) is too restrictive, particularly when read together with proposed Rule 22.3.3ii (a) (ii).

Mr Pickard informed us that the height of cut and fill and slope angle provisions have been carried forward from previous provisions, or identified through the monitoring and consultation phases of the evaluation of earthworks provisions. Mr Pickard accepted that there will be individual instances where the fixed measurements are exceeded and the Commission notes that such exceedances will be addressed through the resource consent process. The Commission concurs with Mr Pickard that it is not appropriate to make further amendments as promoted by the submitter.

The Commission also notes for completeness that Site Standard 22.3.3ii(a) relates to the Rural General, Rural Visitor and Gibbston Character Zones whereas Site Standard 22.3.3ii(b) applies to all other Zones. Accordingly the provisions are not too restrictive as both provisions will apply at the interface between zones.

Glencoe Station Limited (49/30/6) requests that the Council amend Site Standard 22.3.3ii(a) re height of cut and fill and slope to exclude earthworks and bulk earthworks occurring within a Ski Area Sub-Zone.

Te Anau Developments Ltd (49/54/7 and 49/54/12) also requests that:

- Proposed Rule 22.3.3 ii (a) (i) & (ii) Height of cut and fill and slope, is amended - to create a more practical provision for the steep slopes on farms and ski-fields.
- Proposed Rule 22.3.3 iv (c) is amended to recognise that in some areas of Ski Area Sub-Zones it is impractical to restore vegetation and re-vegetate exposed ground.
- Proposed Rules 22.3.3 v (a) and (b) Water Bodies are amended to take into account the need to maintain, repair and augment water defence structures adjacent to waterways and to make these activities permitted activities.
- Flood defence earthworks within 7 metres of a water body; installation of rock culverts and rock armouring are made permitted activities and exempt from proposed Rule 22.3.3(i) and 22.3.3(ii).

Trojan Holdings Ltd (49/57/2) supports the restricted discretionary activity consent status for earthworks in ski areas not located on Public Conservation Land for breaching cut heights, angle of slope or height of fill or for bulk earthworks in these areas in order to enable an assessment of effects of these works.

Southern Hemisphere Proving Grounds (49/53/5) opposes Rule 22.3.3(ii)(a) re height of cut and fill and slope, and requests modification to exclude earthworks and bulk earthworks occurring within a Ski Area Sub-Zone.

The evidence and submissions presented at the hearing have demonstrated that substantial earthworks are required within the Ski Area Sub-Zones, particularly associated with creating dams for snowmaking as well as for other ski-field related purposes. The Commission also acknowledges that the relevant rules in the Operative District Plan exempt earthworks within the Ski Area Sub-Zone from the relevant earthworks rules. As stated in 8.6.5 in this report the Commission considers that earthworks within the Ski Area Sub-Zones should be exempt from the rules in Section 22 as introduced by PC 49; and Rule 22.3.3ii(a) is to be amended accordingly.

In 8.6.4 in this report the Commission has inserted an exemption for earthworks that are necessary to ensure that property and structures are protected from damage during extreme weather events and earthworks of a remedial nature that are necessary following such extreme weather events.

The Commission also considers it appropriate that Rule 22.3.3v(a) be maintained.

Bruce McLeod (49/40/3) considers that with regard to Rule 22.3.3ii(a), the permitted cut heights should be consistent at 2.4 m across all zones. The submitter queries why cuts are restricted to 1 m in the rural area when fill can be 2 m and cuts elsewhere can be 2.4 m.

Much of the land in the Rural General Zone is sensitive to the effects of earthworks. Accordingly the rule has a lower threshold for cuts in the Rural General Zone than, say, in urban zones. The Commission is satisfied that this distinction is appropriate.

John Edmonds and Associates Ltd (49/32/9) requests that Council;

- Consider whether there should be exemptions to the applicability of Rule 22.3.3 ii (b) (i) and (ii) if the matter is otherwise dealt with via other regulatory processes such as building consent.
- Consider removing or reducing restrictions on earthworks near boundaries such as under Rule 22.3.3 ii (b) (iii)

Ian McArthur (49/38/1) requests that Council amend Site Standard 22.3.3ii by increasing the maximum height from 2.4 m to 2.7 m to allow for foundations NZS4229.

Rules in the District Plan are directed to avoiding, remedying or mitigating effects on the environment. The legislative basis for these rules is different from, say, the legislation which relates to building consents. Accordingly the Commission does not consider it appropriate to include exemptions where other regulatory processes such as building consents apply. In all the circumstances the Commission does not consider it appropriate to remove or reduce restrictions on earthworks near boundaries or to increase the maximum height of cuts from 2.4 metres to 2.7 metres as proposed by the submitters.

The heights of cut and fill and slope angles have been carried forward from previous provisions, or identified through the monitoring and consultation phases of the evaluation of earthworks provisions. It is accepted that there will be individual instances where the fixed measurements are to be exceeded and these can be dealt with through the resource consent process. The Commission does not consider it necessary or appropriate to make the amendments as promoted by the submitters.

## Recommendations

1. That the submissions by Cambricare NZ Ltd (49/18/4) opposed by *Heritage New Zealand* (49/31/1), Barley Station Ltd (49/21/3) opposed by *Heritage New Zealand* (49/31/4) and RCL Queenstown (49/49/5) be **rejected**.
2. That the submission by McAuliffe Stevens Registered Architects (49/39/1) be **rejected**.
3. That the submission by Glencoe Station Ltd (49/30/6) be **accepted**.
4. That the submission by Te Anau Developments Ltd (49/54/7 & 49/54/12) be **accepted in part**.
5. That the submission by Trojan Holdings Ltd (49/57/2) be **accepted in part**.
6. That the submission by Southern Hemisphere Proving Grounds (49/53/5) be **accepted in part**.
7. That the submission by Bruce McLeod (49/40/3) be **rejected**.
8. That the submissions by John Edmonds and Associates Ltd (49/32/9) and Ian McArthur (49/38/1) be **rejected**.

### **8.8.3 Residential**

#### **Issues and Discussion**

Dave Drew (49/27/1) opposes the site standards for residential areas as follows:

- 300m<sup>3</sup> is a significant volume of earthworks
- It may allow features such as screening hillocks or other landscape forms otherwise legally protected to be removed as of right.
- 100m<sup>3</sup> is a sufficient volume of earthworks to allow for in a Residential Zone.

Table 22.1 provides a maximum earthworks volume of 300m<sup>3</sup> in Tier 3 zones which includes the Low Density Residential Zone and in certain other zones where residential activity is expected. Mr Pickard's section 42A report advised that the 300m<sup>3</sup> maximum volume is a significant increase for residential sites but that this accords with information from the monitoring and consultation phase, which suggests this is appropriate. Where significant landforms are present it is anticipated that these would be protected by plan rules and/or conditions of subdivision consent. In all the circumstances the Commission considers that the 300m<sup>3</sup> maximum total volume for Tier 3 zones is appropriate.

Ian McArthur (49/38/2) supports increasing the cut and fill allowance onsite from 100m<sup>3</sup> to 300m<sup>3</sup> in the Low Density Residential Zones (Tier 3), as this allows for a basement to be dug into a slope.

#### **Recommendations**

1. That the submission by Dave Drew (49/27/1) be **rejected**.
2. That the submission by Ian McArthur (49/38/2) be **accepted**.

### **8.8.4 Rural**

#### **Issues and Discussion**

Bruce McLeod (49/40/4) questions the volume limits in Table 22.1 as follows:

- It is more logical to set the townships limits at the LDR level (i.e. Tier 3) as they are no more sensitive.
- Earthworks on ONL, ONF, etc should be Tier 1 (citing that Tier 2 is pointless)
- There are too many tiers. LDR, HDR, Industrial, and Business zones should all be combined at 400m<sup>3</sup>.

The submitter also questions where is the Open Space Zone?

Mr Pickard's section 42A report advised the Commission that the Tier limits have been set following consideration of the various discrete environments, and with regard to each other. The townships are generally more sensitive to earthwork development than larger scale urban settlements. In turn, and on a rising scale, residential, then industrial sites are acknowledged as having differing needs.

The Commission agrees with the submitter that it would be appropriate for the townships to all be included in Tier 3. As discussed in 8.8.1 in this report reference to ONL and ONF is inappropriate in Table 22.1. The Commission is satisfied, however, that it is appropriate to

maintain the various tiers as presented in Table 22.1, subject to specific amendments as detailed in this report.

Mr Pickard advised the Commission that the Open Space Zones are identified by reference to the District Plan maps; or may be shown within zones and subzones, and on structure plans. Accordingly reference to the Open Space Zone in Tier 2 of Table 22.1 is appropriate as this will serve to manage earthworks in Open Space Zones which do not form part of the Special Zones.

Roland and Keri Lemaire-Sicre (49/37/1) request that the present Rural General rule of 1,000m<sup>3</sup> be retained or that a resource consent be required/ notified. The submitters note that the rule for most of the Rural General Zone is changing from requiring a controlled consent at 300m<sup>3</sup> to allowing 1,000m<sup>3</sup>.

Mr Pickard's section 42A report informed the Commission that the increase is in line with the need to both enable rural activities, and to control the anticipated levels of effects. In all the circumstances the Commission considers that the maximum total volume of earthworks in the Rural General Zone should be increased to 1000m<sup>3</sup> as provided for in Tier 6 of Table 22.1. Whilst supporting this amendment the Commission acknowledges the concerns expressed by Ms Lemaire-Sicre at the hearing with respect to earthworks undertaken by a neighbour on the boundary of her property.

Te Anau Developments Ltd (49/54/4) requests that the Rural General Zone earthworks provisions are applied to the Rural Visitor Zone, including:

- Applying Objective 4 to the Rural Visitor Zone
- Applying the Rural General volumes/ Tier Rule 22.3.3i to the Rural Visitor Zone

Te Anau Developments Ltd (49/54/10) considers that the intent of proposed Rule 22.3.3i Volume of Earthworks needs to be clearer and requests that the Council amend Rule 22.3.3i Volume of Earthworks to allow a higher tier of Earthworks in Rural Visitor Zones.

The Commission acknowledges that Ms Black for the submitter advised that the Rural Visitor Zone at Walter Peak is effectively managed by the submitter as a small farm; and that the earthworks provisions should enable the efficient undertaking of farming activities on this land. The Commission also acknowledges that Mr Pickard advised at the conclusion of the hearing that it appears appropriate that the maximum total volumes permitted for earthworks in the Rural General Zone should also apply in the context of the Rural Visitor Zone.

In all the circumstances the Commission considers it appropriate to include the Rural Visitor Zones in Tier 6 of Table 22.1. The Commission also considers that the Rural Visitor Zone should be subject to the provisions of Site Standard 22.3.3ii as a consequential amendment.

## **Recommendations**

1. That the submission by Bruce McLeod (49/40/4) be **accepted in part**.
2. That the submission by Roland & Keri Lemaire-Sicre (49/37/1) be **rejected**.
3. That the submissions by Te Anau Developments Ltd (49/54/4 & 49/54/10) be **accepted**.

## **8.8.5 Larger Properties**

### **Issues and Discussion**

Several submitters identified a possible alternative to the volume limits that apply to larger properties and rural properties, especially where the latter are retained in farm use. These include Mike Mee (49/41/7), Lake Wakatipu Station Limited (49/36/7) supported by *Queenstown Airport Corporation (49/46/38)*, Glen Dene Ltd (49/29/1) and Coronet Estates Ltd, Wakatipu Retreat Ltd, Malaghans Park Ltd, and Arrowtown Downs Ltd (49/15/2) supported by *Queenstown Airport Corporation (49/46/45)*. The further submitter supports the sliding scale approach but submits that further consultation may be required to determine how best to achieve the relief sought by the original submitter.

Woodlot Properties (49/58/4) promoted that the Tier 2 and Tier 6 quantities be amended to reflect the size of the Rural General properties and make these quantities permitted regardless of landscape classification. The submitter promotes for example:

- On landholdings less than 10 ha: 1,000m<sup>3</sup> per annum
- On landholdings 10 - 50 ha: 2,000m<sup>3</sup> per annum
- On landholdings 100 - 500 ha: 2,500 m<sup>3</sup> per annum
- On landholdings 500 - 1,000 ha: 3,000m<sup>3</sup> per annum
- On landholdings greater than 1,000 ha: 3,500 m<sup>3</sup> per annum  
and, apply a similar permitted scale relative to landholding size to the urban zones

Mr Pickard's section 42A report recommended that a new Tier 6A be included in Table 22.1 which would provide for a maximum total volume of 50,000m<sup>3</sup> within the Rural General Zone where properties in one ownership exceed 100 hectares in area except where land is classified ONL, ONF or is within a Heritage Landscape.

The Commission acknowledges that PC 49 has increased the maximum total volume of earthworks which can be undertaken as a permitted activity in the Rural General Zone from 300m<sup>3</sup> to 1000m<sup>3</sup>. The Commission does not favour a sliding scale relating earthworks to property area as this does not provide for the management of the effects of earthworks. The effects of such earthworks will be apparent irrespective of the area of the land holding concerned.

The Commission has given particular consideration to the suggestion that a Tier 6A be included which provides for a maximum total volume of 50,000m<sup>3</sup> (as discussed above). The Commission does not favour this approach as, again, the effects of earthworks need to be managed and such effects do not vary depending on the size of the property concerned. Furthermore Tier 6A is likely to be of little practical value given the limited number of properties which exceed 100 hectares in, say, the Wakatipu Basin. The Commission also notes that the section 42A report recommendation envisaged that Tier 6A would not apply with respect to ONL, ONF and Heritage Landscapes. The Commission has found that it is inappropriate to refer to the ONL and ONF categories in Table 22.1 for the reasons detailed in 8.8.1 in this report.

In all the circumstances the Commission has decided not to include a Tier 6A in Table 22.1; and does not accept that a sliding scale should be applied which relates the permitted maximum total volume of earthworks to the size of the landholding concerned.

### **Recommendations**

1. That the submissions by Mike Mee (49/41/7), Lake Wakatipu Station Limited (49/36/7) supported by *Queenstown Airport Corporation (49/46/38)*, Glen Dene Ltd (49/29/1) and Coronet Estates Ltd, Wakatipu Retreat Ltd, Malaghans Park Ltd, and

Arrowtown Downs Ltd (49/15/2) supported by *Queenstown Airport Corporation (49/46/45)* be **rejected**.

2. That the submission by Woodlot Properties (49/58/4) be **rejected**.

### **8.8.6 Special Zones**

#### **Issues and Discussion**

Blackmans Creek Holdings No 1 LP (49/1/24) questions the “certainty” of the proposed provisions relating to the Special Zone Activity Areas in Table 22.1, Tiers 2, 3, 4, and 5. The submitter notes the following points on the assumption that the volume “trigger” control rule and approach of having a number of Tiers is retained:

- It is necessary that a District Plan provide certainty regarding consent status.
- The four bullet points refer to different specific zones which do not necessarily apply within all of the Special Zones.
- That degree of ambiguity is unnecessary and inappropriate.

Millbrook Country Club Ltd (49/42/5) opposes the inclusion of maximum volumes of earthworks as it applies to the Millbrook part of the Resort Zone. This submission point is made in the event that the primary relief (of excluding the Millbrook section of the Resort Zone from PC 49) is declined.

Mount Farm Ventures Ltd (49/43/1) partly supports the proposed provisions related to Site Standards in that an ‘area threshold’ will not be introduced into the Bendemeer Special Zone; but requests that Rule 22.3.3(i) (Table 22.1) be amended such that the Bendemeer Special Zone is supported by an earthworks threshold of no less than 1,000m<sup>3</sup>.

Mt Cardrona Station Ltd (49/7/31) opposes Rule 22.3.2.2 and requests that the Council amend this rule by inserting a new subparagraph (e) as follows:

"(e) In the Mount Cardrona Station Zone, earthworks for the purposes of activities listed in Controlled Activity Rule 12.22.3.2.(iii) are exempt from Rule 22.3.3 and Rule 22.3.2.4(b)."

The Commission is satisfied that Section 22 as introduced by PC 49 should not relate to earthworks within the Special Zones contained in Section 12 of the Operative District Plan except for the Rural Visitor Zone. The Commission accepts, following consideration of the submissions and evidence presented at the hearing, that there are sound reasons for the tailored provisions contained in Section 12; and accordingly that the status quo should be maintained with respect to the earthworks provisions which apply in the Special Zones. The relevant submissions are therefore to be accepted in part as Special Zones will not be subject to PC 49.

Shotover Park Ltd (49/52/2) offers partial support to the Tier levels, dependant on confirmation of Activity Areas E1 and E2 of Frankton Flats being considered within Tier 5.

The Commission notes that Activity Areas E1 and E2 form part of the Frankton Flats Special Zone. For the reasons detailed above the Commission is satisfied that Special Zones should not be subject to PC 49 and accordingly Activity Areas E1 and E2 are not to be specifically referred to in Tier 5 in Table 22.1.

## Recommendations

1. That the submission by Blackmans Creek Holdings No 1 LP (49/1/24) be **accepted in part**.
2. That the submission by Millbrook Country Club Ltd (49/42/5) be **accepted in part**.
3. That the submission by Mount Farm Ventures Ltd (49/43/1) be **accepted in part**.
4. That the submission by Mt Cardrona Station Ltd (49/7/31) be **accepted in part**.
5. That the submission by Shotover Park Ltd (49/52/2) be **accepted in part**.

### 8.8.7 Queenstown Airport Mixed Use Zone

#### Issue and Discussion

Queenstown Airport Corporation (49/46/7) opposes the Site Standard and requests that the Airport Mixed Use Zone (which applies at Queenstown Airport) be identified as a Tier 5 activity for earthworks within this zone.

The Commission concurs with the section 42A report recommendation that the Queenstown Airport Mixed Use Zone should be included in Tier 5 in Table 22.1. PC 49 as notified omitted to include the Queenstown Airport Mixed Use Zone.

#### Recommendation

1. That the submission by Queenstown Airport Corporation (49/46/7) be **accepted**.

### 8.8.8 Linkages / Cross References

#### Issues and Discussion

Blackmans Creek Holdings No 1 LP (49/1/25) requests clarification as to why the first bullet point of Rule 22.3.3.i, Table 22.1, Tier 6, refers to Section 5.3.5.1(v) instead of referring directly to Appendix 5.

The reference in Table 22.1 Tier 6 is to the relevant rule which relates to Significant Indigenous Vegetation in the Rural General Zone. Rule 5.3.5.1v refers to the Significant Indigenous Vegetation included in Appendix 5. The Commission considers that reference to the rule is appropriate albeit that this needs to be amended to refer to "Rule 5.3.5.1v".

Trojan Holdings Ltd (49/57/8) offers partial support to:

- Removing the minimum area of exposed soil from the proposed earthworks provisions.
- The proposed Table 22.1 format, which groups the District Plan Zones into seven categories or 'Tiers'
- The proposed increase in the permitted earthworks volumes across the proposed Tiers as this will avoid large numbers of resource consents.

The submitter promotes that Tier 2 should be re-worded to make clear its requirements only apply to say "ONLs in the Rural General Zone" to avoid any confusion over the application of landscape classification for earthworks proposals.

The submission notes the general support for the Tiers in Table 22.1. As discussed in 8.8.1 in this report it is inappropriate to refer to ONLs in Table 22.1 and accordingly no further clarification is required, as promoted by the submitter.

Blackmans Creek Holdings No 1 LP (49/1/7) and Gibbston Valley Station (49/28/7) oppose all provisions which impose a earthworks volume trigger level for consent purposes, or which relate to an earthworks volume trigger control rule or requirement, and requests that they are deleted.

John Edmonds and Associates Ltd (49/32/12) opposed by *Heritage New Zealand* (49/31/9) requests either deletion of Table 22.1 or amendments to make it unambiguous what areas are covered by the various tiers. Further John Edmonds and Associates Ltd (49/32/8) opposed by *Heritage New Zealand* (49/31/8) requests that Council review the need to control the volume of earthworks and, if appropriate, delete Rule 22.3.3.i(a), and other provisions relating to the control of the volume of earthworks.

The Commission agrees with Mr Pickard's section 42A report that maximum total volume is an acceptable and reasonable measure to adopt. The tiered approach contained in Table 22.1 enables the maximum total volume of earthworks to be managed based on the sensitivity of the receiving environment. The Commission is satisfied that Table 22.1, as amended in terms of the recommendations contained in this report, provides a sound basis for managing the effects of earthworks within the zones recommended to be included in Table 22.1 as presented in Appendix 3 to this report.

## **Recommendations**

1. That the submission by Blackmans Creek Holdings No 1 LP (49/1/25) be **accepted in part**.
2. That the submission by Trojan Holdings Limited (49/57/8) be **accepted in part**.
3. That the submission by Blackmans Creek Holdings No 1 LP (49/1/7) and Gibbston Valley Station (49/28/7) be **rejected**.
4. That the submissions by John Edmonds and Associates Ltd (49/32/12) opposed by *Heritage New Zealand* (49/31/9) and by John Edmonds and Associates Ltd (49/32/8) opposed by *Heritage New Zealand* (49/31/8) be **rejected**.

## **8.8.9 Water bodies**

### **Issues and Discussion**

Otago Regional Council (49/44/9) requests a time / frequency limit be attached to Rule 22.3.3.v, as currently there would be no control over this event occurring as many times as desired as a permitted activity.

The Commission notes that other rules eg. Rule 22.3.3i(a) limit earthworks to one consecutive 12 month period. Accordingly the Commission is satisfied that it is appropriate to amend Rule 22.3.3v(a) to refer to "within one consecutive 12 month period".

Otago Regional Council (49/44/10) requests that Council take the opportunity to standardise terminology between the ORC's water plan and the district plan. It is recommended that 'penetration' should replace 'expose' (Site Standard 22.3.3 v (c)(i)) and 'or contaminate' be added in reference to protecting any groundwater aquifer.

While the section 42A report has recommended an amendment to this effect the Commission is concerned that duplication will result between the rules of the District Plan and the Regional Water Plan. Accordingly the Commission is satisfied that Site Standard 22.3.3v(c)(i) should not be amended as sought by the submitter; and that Site Standard 22.3.3v(c)(i) as recommended in the section 42A report should be deleted from PC 49.

### **Recommendations**

1. That the submission by the Otago Regional Council (49/44/9) be **accepted**.
2. That the submission by the Otago Regional Council (49/44/10) be **rejected**.

## **8.8.10 Cultural Heritage and Archaeological Sites**

### **Issues and Discussion**

Heritage New Zealand (49/31/5) supports Rule 22.3.3vi(a) re cultural heritage and archaeological sites, and requests its retention.

John Edmonds and Associates Ltd (49/32/15) supported in part by *Queenstown Airport Corporation (49/46/40)* requests that Council amend those rules referring to Cultural Heritage and Archaeological Sites (Rule 22.3.3 (vi)) to make those sites to which they apply easily identifiable through reading the District Plan. The submitter also promotes that either Rule 22.3.3iv be amended to ensure that the standards are measureable and easily assessed by users of the plan; or that the rules be deleted and made assessment matters; or added to non-statutory guidelines for earthworks.

Kai Tahu Ki Otago Ltd (49/33/6) partly supports Rule 22.3.3 (vi)(b) but requests amendments as follows (in order to ensure consistency with the wording of section 206 of the Ngāi Tahu Claims Settlement Act 1998):

"(b) Earthworks shall not affect Ngai Tahu's cultural, spiritual, historic and traditional association with land adjacent to or within a Statutory Acknowledgement Area."

The Commission has significant concerns with respect to Rule 22.3.3vi as presented in PC 49. The Commission considers that Rule 22.3.3vi(a) should not refer to the Kai Tahu ki Otago or Te Marama Incorporated Natural Resource Management Plans. The reason for this is that these plans are not prepared under the RMA and can be amended at any time. Reference to these plans in Rule 22.3.3vi(a) introduces uncertainty as additional sites could be included in those plans at any time.

The Commission shares Mr Wells's concerns as expressed at the hearing with respect to the appropriateness of Rule 22.3.3vi(b). The words "shall not affect" are absolute and the words "land adjacent to" are uncertain. Such uncertainty is compounded given the vast areas subject to Statutory Acknowledgment as identified in Section SA of the District Plan. The Commission's conclusion is that Rule 22.3.3vi(b) should be replaced with an Assessment Matter in PC 49.

Mr Pickard tabled a plan at the hearing showing Tititea (Mt Aspiring) that is subject to a Statutory Acknowledgment. Given that the land subject to Statutory Acknowledgment can be identified the Commission considers that Rule 22.3.3vi(c) should stand, albeit that this will now be renumbered as Rule 22.3.3vi(b). Accordingly the Commission considers it appropriate to amend Rule 22.3.3vi to state as follows:

**“vi Cultural heritage and archaeological sites**

- (a) Earthworks shall not modify, damage or destroy any waahi tapu, waahi taonga or archaeological sites that are identified in Appendix 3 of the Plan.
- (b) In the Rural General Zone, earthworks within areas identified as Ngai Tahu Statutory Acknowledgement Areas shall not exceed 20m<sup>3</sup> in volume.”

As a consequence of the above a new Assessment Matter 22.4vii(b) is to be amended to read as follows:

- “(b) The extent to which the activity affects Ngai Tahu’s cultural, spiritual, historic and traditional association with a Statutory Acknowledgement Area having regard to the relevant provisions of the Kai Tahu ki Otago and Te Ao Marama Incorporated Natural Resource Management Plans.”

**Recommendations**

1. That the submission by Heritage New Zealand (49/31/5) be **accepted in part**.
2. That the submission by John Edmonds and Associates Ltd (49/32/15) supported in part by *Queenstown Airport Corporation (49/46/40)* be **accepted**.
3. That the submission by Kai Tahu ki Otago Limited (49/33/6) be **accepted in part**.

**8.8.11 Environmental Protection Measures**

**Issues and Discussion**

Queenstown Airport Corporation (49/46/8) supports Rule 22.3.3. and requests its retention with minor amendments to Rule 22.3.3iv(b) to read

“..beyond the boundary and above the site”.

Mr Pickard’s section 42 report advised that this amendment cannot be included in its present form as it is not measurable. The Commission also acknowledges that Ms O’Sullivan promoted an alternative amendment at the hearing which has been accepted by the Commission in 8.7.2 in this report. In essence a new Rule 22.3.1(c) is to be inserted with respect to earthworks in the vicinity of Queenstown and Wanaka Airports. The Commission understands that the intent of the submitter has at least in part been satisfied by that amendment.

**Recommendation**

That the submission by Queenstown Airport Corporation (49/46/8) be **accepted in part**.

**8.8.12 Hours of Work - Non Rural Areas**

**Issues and Discussion**

Blackmans Creek Holdings No 1 LP (49/1/8) requests that Council consider possibly inserting a new Site Standard specifying permissible hours of operation for earthworks activities in specified zones, or within all zones other than the Rural General Zone.

Rule 22.3.3vii contains Site Standards with respect to construction noise. The Commission is satisfied that this Site Standard is adequate to address noise effects with respect to earthworks. In all the circumstances the Commission does not consider that an additional Site Standard is necessary or appropriate.

### **Recommendation**

That the submission by Blackmans Creek Holdings No 1 LP (49/1/8) be **rejected**.

## **8.8.13 Transmission Lines**

### **Issues and Discussion**

Transpower New Zealand Ltd (49/56/5) opposes Site Standard 22.3.3 viii; and requests its deletion and replacement with:

"viii Cromwell - Frankton A National Grid Electricity Line

(a) Any Earthworks, Cleanfill or Mining Activity within 12m of a support structure (tower) or within 12m of the centreline of the Cromwell - Frankton A line shall not:

(i) Exceed a depth of 300mm within 12m of any National Grid support structure (tower) foundation.

(ii) Compromise the stability of a national Grid support structure; and

(iii) Result in a reduction in the ground to conductor clearance distances below what is required by Table 4 of the New Zealand Electrical Code of Practice for Electrical Safe Distances (NZECP 34: 2001).

Provided that the following are exempt from point (a) (i) above:

- Earthworks for a network utility within a transmission corridor, as part of a transmission activity, or for electricity infrastructure (including generation infrastructure); or
- Earthworks undertaken as part of agricultural or domestic cultivation, or repair, sealing or re-sealing of a road, footpath, driveway or farm track.

Correspondence from Ms Shand for the submitter dated 2 December 2014 advised that the submitter also seeks an additional exemption with respect to vertical holes on the basis that the exemption, as promoted in the submission does not provide for rural fences or horticultural structures.

As acknowledged in 8.6.8 in this report the Cromwell-Frankton A National Grid Electricity Line is the only transmission line going into Queenstown and if it is undermined this could result in an outage for Queenstown and the wider District. Given the significance of this line the Commission considers it appropriate to amend Site Standard 22.3.3viii as proposed by the submitter, subject only to minor typographical amendments for a reasons of consistency.

### **Recommendation**

That the submission by Transpower New Zealand Ltd (49/56/5) be **accepted**.

## 8.9 Assessment Matters

### 8.9.1 General

#### Issues and Discussion

John Edmonds and Associates Ltd (49/32/16) requests that Council:

- Add introductory text to the assessment matters to aide in the appropriate interpretation and application of those matters.
- Amend assessment matter 22.4.i(a) to remove reference to whether earthworks are necessary and clarify that it does not apply to urban areas.
- Amend assessment matter 22.4.i (b) to make it clear this does not apply to urban areas.
- Amend assessment matter 22.4.ix (a) to elaborate on what matters with respect to the source and type of clean fill material may have a bearing on the outcome of a resource consent.

The Commission considers that it is appropriate to insert an introductory paragraph; this approach being consistent with other Sections of the District Plan. This paragraph will state:

*“In considering whether or not to grant consent or impose conditions, the Council shall have regard to, but not be limited by, the following assessment matters:”*

The Assessment Matters 22.4i(a) and (b) are generic, apply across the District and are appropriate. The Commission does not consider it appropriate to exclude the application of these assessment matters to urban areas. The Commission also considers reference to the source and type of cleanfill material is appropriate in the context of Assessment Matter 22.4ix(a) as this will contribute to understanding the effects of any activity subject to application.

Shotover Park Ltd (49/52/8) requests that Council reduce the number of assessment matters albeit that the submitter has not identified assessment matters which should be deleted. The Commission notes that assessment matters will be amended in the event that the recommendations contained in this report are accepted by the Council.

Te Anau Developments Ltd (49/54/13) and Cardrona Alpine Resort (49/26/7) consider that the assessment matters regarding Ski Area Sub-Zones need to allow for the reality of modern skifields where earthworks may not be sympathetic to natural topography; can create an area that is inconsistent with the character of the surrounding landscape; and the fact that it is not always appropriate to revegetate slopes because of the need for ongoing maintenance and safety improvements.

As stated in 8.1.8 (and elsewhere) in this report the Commission finds that it is appropriate to amend PC 49 to provide for the exemption for earthworks in the Ski Area Sub-Zone; maintaining the approach in the Operative District Plan. Deletion of references to the Ski Area Sub-Zone from the assessment matters will satisfy the submitters' concerns.

#### Recommendations

1. That the submission by John Edmonds and Associates Ltd (49/32/16) be **accepted in part**.

2. That the submission by Shotover Park Limited (49/52/8) be **rejected**.
3. That the submissions by Te Anau Developments Ltd (49/54/13) and Cardrona Alpine Resort (49/26/7) be **accepted in part**.

## **8.9.2 Relationship to Zones**

### **Issues and Discussion**

Blackmans Creek Holdings No 1 LP (49/1/4), Cambricare NZ Ltd (49/18/6), Barley Station Ltd (49/21/6) and Gibbston Valley Station (49/28/4) have raised the relationship of the assessment matters to the specific and individual zones in which their interests lie. This includes a request to retain assessment matter 22.4(iv) (landscape and visual amenity) but add a specific assessment matter requiring consideration of the zone within which the earthworks are being carried out and the relevant objectives and policies.

It is anticipated that the submitters' concerns may in part have been satisfied by the recommendations in this report to the effect that the provisions of PC 49 will not apply to Ski Area Sub-Zones and that the Special Zones (apart from the Rural Visitor Zone) will not be subject to Section 22 as introduced by PC 49.

Section 22 applies across the District. In all the circumstances the Commission is satisfied that it would not be appropriate to include a specific assessment matter which requires consideration of the zone within which the earthworks are being carried out. The generic assessment matters and the provisions of Part 4 of the District Plan will provide for robust assessment of applications for resource consent for earthworks in the context of the receiving environment.

### **Recommendation**

1. That the submissions by Blackmans Creek Holdings No 1 LP (49/1/4), Cambricare NZ Ltd (49/18/6), Barley Station Ltd (49/21/6) and Gibbston Valley Station (49/28/4) be **accepted in part**.

## **8.9.3 Environmental Protection Measures**

### **Issues and Discussion**

Blackmans Creek Holdings No 1 LP (49/1/26) requests that the words "The effects on traffic generated and..." in Rule 22.4.ii(e) be deleted as the justification for those words is unclear in that noise is covered by a separate Site Standard; hours of operation are dealt with by the preceding subclause (d); deposition of sediment is dealt with elsewhere in this subclause and by a separate Site Standard; and the purpose of roads is to accommodate traffic.

In essence the submitter seeks the deletion of Assessment Matter 22.4ii(e). The Commission concurs that these matters are addressed in other assessment matters which are to be amended further in accordance with the recommendations contained in this report.

Blackmans Creek Holdings No 1 LP (49/1/27) requests that the assessment matter 22.4.ii(f) regarding the track record of the applicant/operator be deleted as when most applications for resource consent involving earthworks are made, the choice of earthworks contractor has yet to be made.

Mr Pickard's section 42A report agrees with this amendment. He has observed that the choice of contractor is not within the scope of PC 49. The Commission also notes that "track record" is not a matter which can be taken into account when considering an application for resource consent.

As a consequence of these submissions Rule 22.4ii will now contain four assessment matters as follows:

### **Environmental Protection Measures**

- (a) *Whether, and to what extent proposed sediment and erosion control techniques are adequate to ensure sediment remains on-site.*
- (b) *Whether appropriate measures to control dust emissions are proposed, including from associated transport on and off the site.*
- (c) *Whether the earthworks will adversely affect stormwater and overland flows, and create adverse effects off-site.*
- (d) *Hours of operation, including whether the activity will generate noise and vibration effects, which detract from the amenity values of the surrounding area.*

### **Recommendation**

1. That the submissions by Blackmans Creek Holdings No 1 LP (49/1/26 & 49/1/27) be **accepted**.

## **8.9.4 Waterbodies**

### **Issues and Discussion**

Otago Regional Council (49/44/8) requests that the Council expands the assessment matters for water bodies to include effects on the natural character of water bodies. The Commission is satisfied that this can be accommodated and will enhance the provisions.

The Commission considers that Rule 22.4vi should be amended to introduce an additional assessment matter (c) as follows:

- "(c) The effects of earthworks on the natural character of wetlands, lakes and rivers and their margins."

### **Recommendation**

That the submission by the Otago Regional Council (49/44/8) be **accepted**.

## **8.9.5 Impacts on Sites of Cultural Heritage Value**

### **Issues and Discussion**

Heritage New Zealand (49/31/6) supports the retention of assessment matters 22.4.(vii)(a)-(d) subject to:

- Replacing the references to "New Zealand Historic Places Trust and/ or Historic Places Trust" with "Heritage New Zealand";

- Adding a new assessment matter d):  
"The extent to which earthworks activities have the potential to adversely affect heritage buildings or structures located in close proximity to the site of the proposed earthworks and the adequacy of any avoidance or mitigation measures put forward to address such risks or effects".

The Commission accepts that it is appropriate to update PC 49 to refer to "Heritage New Zealand" wherever appropriate. Reference to the potential adverse effects of earthworks on heritage buildings or structures is appropriate as an assessment matter. Heritage buildings and structures are likely to be more susceptible to the removal of ground support than modern buildings.

Kai Tahu Ki Otago Ltd (49/33/7) requests that "spiritual and historic" associations are added to Assessment Matter 22.4 vii (b). Such an amendment is appropriate to ensure consistency with the terminology previously used in Site Standard 22.3.3vi(b) which is recommended to be deleted in 8.8.10 in this report.

As a consequence the words "spiritual" and "historic" should be included in Assessment Matter 22.4vii(b) as promoted by the submitter.

Blackmans Creek Holdings No 1 LP (49/1/28) opposed in part by *Heritage New Zealand* (49/31/30) requests that Assessment Matter 22.4.vii(c) should be deleted as:

- Archaeological sites do not necessarily have to be protected through District Plan provisions and Council should consider any other statutory regimes in place to ensure that any required policy direction is implemented.
- The rule (assessment matter) implies that the Archaeological Authority should be obtained first, which will potentially add months of delay to the consenting process without justification.
- The rule implies that, if an Archaeological Authority has not been obtained, the Council may impose conditions on the relevant earthworks consent in respect of any archaeological site, which risks consent conditions being inconsistent with those of the Archaeological Authority. This is both inefficient and inappropriate.
- This issue can easily be addressed by the Council including a standard condition in every earthworks consent requiring the consent holder not to carry out any earthworks which would damage a pre-1900 archaeological site without first obtaining the required Archaeological Authority from Heritage New Zealand Pouhere Taonga.

The further submitter requests that the proposed provision is retained as proposed, subject to its earlier requested amendments.

Archaeology is an element of historic heritage which under section 6(f) of the RMA is a matter of national importance. The Commission considers that Assessment Matter 22.4vii(c) is appropriate as it enables the effects of recorded archaeological sites to be assessed.

The assessment matter does not require that an archaeological authority be obtained first. If an archaeological authority has been obtained it is appropriate that this information be provided to the consent authority.

It would be prudent for an applicant to secure an archaeological authority prior to applying for resource consent. When such archaeological authority has not been secured it may be that an advice note could be attached to the resource consent which draws attention to the need to secure such an authority prior to the commencement of earthworks.

In all the circumstances the Commission considers that Assessment Matter 22.4vi(c) is appropriate and should be retained in PC 49.

## **Recommendations**

1. That the submission by Heritage New Zealand (49/31/6) be **accepted**.
2. That the submission by Kai Tahu ki Otago Ltd (49/33/7) be **accepted**.
3. That the submission by Blackmans Creek Holdings No 1 LP (49/1/28) opposed in part by *Heritage New Zealand (49/31/30)* be **rejected**.

### **8.9.6 Bulk Earthworks**

#### **Issues and Discussion**

Queenstown Airport Corporation (49/46/9) partly supports the retention of the proposed assessment matters but requests that additional assessment matters be included under sub-heading 22.4i or under a new category, which recognises and provides for those circumstances where there are significant social and/ or economic benefits in providing for earthworks. The submitter also requests the retention of assessment matter 22.4 (ii) regarding Environmental Protection Measures as drafted. The request is made to retain Assessment Matter 22.4vii regarding Bulk Earthworks with a minor amendment to ensure that the measures outlined in 22.4vii(e) are implemented to manage the effects of earthworks on other sensitive receivers such as overhead aircraft.

The Commission considers that it is not necessary to introduce an additional assessment matter with respect to the social and economic benefits in providing for earthworks. The Commission considers that this has adequately been recognised in terms of Policy 1.5 under Objective 1 as presented in Appendix 3 to this report. The Commission also acknowledges that social and economic benefits are to be weighed in the decision making process as this is a core element for consideration in terms of section 5 of the Act.

The Commission accepts that a reference to other sensitive receivers such as aircraft operating in the Airport Protection Inner and Conical Surfaces for Queenstown and Wanaka Airports is appropriate in the context of Assessment Matter 22.4vii(e). This would be a matter which would be of particular relevance where earthworks are undertaken at the approaches to the airports in the District. A generic reference to “overhead aircraft” is not considered appropriate.

#### **Recommendation**

That the submission by Queenstown Airport Corporation (49/46/9) be **accepted in part**.

### **8.10 Definitions**

#### **8.10.1 Archaeological Site**

#### **Issues and Discussion**

Heritage New Zealand(49/31/7) requests that the following addition is added:

Archaeological site means: a) any place in NZ, including any building or structure (or part of a building or structure), that –

- (i) was associated with human activity that occurred before 1900 or is the site of the wreck of any vessel where the wreck occurred before 1900; and
- (ii) provides or may provide, through investigation by archaeological methods, evidence relating to the history of NZ

The term “Archaeological Site” is used in Section 22 including Site Standard 22.3.3vi and Assessment Matter 22.4vii. Accordingly it is appropriate that a definition of the term “Archaeological Site” be included in PC 49.

The definition promoted by the submitter reproduces in part the definition contained in the Heritage New Zealand Pouhere Taonga Act 2014. Given that this term is subject to a statutory definition the Commission considers that the appropriate course is simply to refer to that definition in the Definitions section of the District Plan. Accordingly the following definition is to be included:

*“Archaeological Site Means an archaeological site as defined in section 6 of the Heritage New Zealand Pouhere Taonga Act 2014.”*

## **Recommendation**

That the submission by Heritage New Zealand (49/31/7) be **accepted in part**.

### **8.10.2 Bed & River**

#### **Issues and Discussion**

Blackmans Creek Holdings No 1 LP (49/1/29) suggests that if it is considered necessary to insert definitions of "Bed" and "River" into the District Plan, then they should not be quoted in full but should be directly cross-referenced, as is the case with the definition of “Building” (which cross-references to the Building Act 1991) and the definition of "Road" (which cross-references to the Local Government Act 1974).

The Commission acknowledges that the terms “Bed” and “River” are defined in the Resource Management Act 1991. Given that these terms are defined in the statute the Commission considers that it is unnecessary to repeat these definitions in the District Plan. There is a danger that the statute could be amended resulting in a situation where the definitions of the terms may become inconsistent between the statute and the District Plan. In all the circumstances the Commission considers that the most appropriate course is to amend the definitions of the terms “Bed” and “River” to simply cross reference to the statutory definitions contained in the RMA.

As a consequence the terms “Bed” and “River” are to be defined in PC 49 as follows:

*“Bed Means Bed as defined in section 2 of the Resource Management Act 1991.”*

*“River Means river as defined in section 2 of the Resource Management Act 1991.”*

## **Recommendation**

That the submission by Blackmans Creek Holdings No 1 LP (49/1/29) be **accepted**.

### **8.10.3 Cleanfill and General**

#### **Issues and Discussion**

John Edmonds and Associates Ltd (49/32/17) has requested that the Council delete the definition of Cleanfill and associated provisions; and delete proposed amendments to those definitions that do not relate exclusively to earthworks or which differ from or reiterate the wording of the Resource Management Act.

Mr Pickard's section 42A report informed the Commission that the inclusion of provisions relating to cleanfill has been in response to an identified gap in the coverage of effects between the QLDC and ORC, in consultation with the ORC. Given that the terms "Cleanfill" and "Cleanfill Facility" are used in Section 22 as introduced by PC 49; the Commission is satisfied that these terms should also be defined in the District Plan. Accordingly the Commission finds that these definitions are appropriate subject to a minor amendment in the definition of the term "Cleanfill" which is to be defined as follows:

*"Cleanfill Means asphalt (cured), bricks, ceramics, concrete, fibre cement building products, glass, road sub-base, soils, rock, gravel and clay."*

The Commission is satisfied that the definitions to be included in the District Plan via PC 49 as amended in terms of the recommendations of this report are appropriate. The Commission concurs with the submitter that where terms are defined in statute, then the statutory definition should be referred to in any definition inserted into the District Plan.

#### **Recommendation**

That the submission by John Edmonds and Associates Ltd (49/32/17) be **accepted in part**.

### **8.10.4 Earthworks**

#### **Issues and Discussion**

Mark Kunath (49/35/1), Remarkables Park Ltd (49/50/7) and Shotover Park Ltd (49/52/7) request that the Council retains the existing definition of Earthworks as it relates to the planting of trees.

Coronet Estates Ltd, Wakatipu Retreat Ltd, Malaghans Park Ltd and Arrowtown Downs Ltd (49/15/5), Lake Wakatipu Station Limited (49/36/4) and Mike Mee (49/41/4) request that the definition of Earthworks is not changed as it relates to the exemption of the planting of trees, landscaping etc.

The Commission concurs with the submitters that there appears to be no sound reason for not excluding the planting of vegetation including trees from the definition of Earthworks. This maintains the exemption contained in the existing definition of Earthworks and the Commission acknowledges that Mr Pickard in his section 42 report supported such an exemption.

As noted above some of the submitters have also promoted an exemption for "landscaping etc". The Commission notes that there is no reference to "landscaping" in the exemptions contained in the definition of Earthworks in the Operative District Plan. Accordingly it is not appropriate to include an exemption with respect to "landscaping" in PC 49.

In all the circumstances the Commission considers it appropriate to include a definition of Earthworks as follows:

*“Earthworks Means the disturbance of land by the removal or depositing of material. Earthworks may include excavation, fill, cuts, batters and formation of roads, access and tracks, and the use of Cleanfill, but does not include the cultivation of land, planting of vegetation including trees, Mining Activities and Cleanfill Facilities.*

## **Recommendations**

1. That the submissions by Mark Kunath (49/35/1), Remarkables Park Ltd (49/50/7) and Shotover Park Ltd (49/52/7) be **accepted**.
2. That the submissions by Coronet Estates Ltd, Wakatipu Retreat Ltd, Malaghans Park Ltd and Arrowtown Downs Ltd (49/15/5), Lake Wakatipu Station Limited (49/36/4) and Mike Mee (49/41/4) be **accepted in part**.

### **8.10.5 Mining and Quarrying**

#### **Issues and Discussion**

Trojan Holdings Ltd (49/57/9) supports the retention of the exclusion of mining and quarrying activities from the application of the proposed earthworks rules, as provided for by the new definitions for those activities.

The submitter’s support for this definition is noted. The Commission considers that it is appropriate to make minor typographical amendments to the final sentence of the definition of Mining Activity to read:

*“Mining Activity includes gravel extraction and processing.”*

#### **Recommendation**

That the submission by Trojan Holdings Ltd (49/57/9) be **accepted in part**.

## **9.0 STATUTORY DOCUMENTS**

### **9.1 Objectives and Policies of the Otago Regional Policy Statement**

The Otago Regional Policy Statement became operative on 1 October 1998. The Regional Policy Statement contains objectives and policies relating to Land including Objectives 5.4.1 and 5.4.2 and Policies 5.5.3 and 5.5.5 which state as follows:

***“5.4.1 To promote the sustainable management of Otago’s land resources in order:***

- (a) To maintain and enhance the primary productive capacity and life-supporting capacity of land resources; and***
- (b) To meet the present and reasonably foreseeable needs of Otago’s people and communities.”***

***“5.4.2 To avoid, remedy or mitigate degradation of Otago’s natural and physical resources resulting from activities utilising the land resource.”***

***“5.5.3 To maintain and enhance Otago’s land resource through avoiding, remedying or mitigating the adverse effects of activities which have the potential to, among other adverse effects:***

- (a) Reduce the soil’s life-supporting capacity***
- (b) Reduce healthy vegetative cover***

- (c) **Cause soil loss**
- (d) **Contaminate soils**
- (e) **Reduce soil productivity**
- (f) **Compact soils**
- (g) **Reduce soil moisture holding capacity.”**

**“5.5.5 To minimise the adverse effects of landuse activities on the quality and quantity of Otago’s water resource through promoting and encouraging the:**

- (a) **Creation, retention and where practicable enhancement of riparian margins; and**
- (b) **Maintaining and where practicable enhancing, vegetation cover, upland bogs and wetlands to safeguard land and water values; and**
- (c) **Avoiding, remedying or mitigating the degradation of groundwater and surface water resources caused by the introduction of contaminants in the form of chemicals, nutrients and sediments resulting from landuse activities.”**

The Commission is satisfied that PC 49 is consistent with Objectives 5.4.1 and 5.4.2 of the Regional Policy Statement and with the supporting policies. The Commission considers that PC 49, as amended in terms of the Commission’s recommendations, is consistent with the objectives and policies stated in the Regional Policy Statement.

## **9.2 Objectives and Policies of the Queenstown Lakes District Plan**

The Queenstown Lakes District Plan became fully operative on 10 December 2009.

Section 4 of the Queenstown Lakes District Plan contains higher order objectives and policies that apply throughout the District. PC 49 deletes Section 4.11 Earthworks from the District Wide section of the Operative District Plan and introduces a comprehensive suite of objectives and policies in the new Section 22 instead.

The Commission considers that the objectives and policies stated in Section 4.2 Landscape and Visual Amenity, Section 4.9 Urban Growth and Section 4.12 Monitoring, Review and Enforcement are of relevance to PC 49. While the objectives and policies in Section 4 are expressed in broad terms the Commission acknowledges that Objective 4.2.5 states as follows:

**“Objective:**

***Subdivision, use and development being undertaken in the District in a manner which avoids, remedies or mitigates adverse effects on landscape and visual amenity values.”***

Objective 4.2.5 is supported by a range of policies including, in particular, policies which apply with respect to various landscape categories.

Objective 4.9.3.1 that relates to Urban Growth states as follows:

**“Objective 1 – Natural Environment and Landscape Values**

***Growth and development consistent with the maintenance of the quality of the natural environment and landscape values.”***

The Commission notes that landscape values are to be respected in the context of urban growth. No specific policies with respect to earthworks are presented in Section 4.9 Urban Growth.

Objective 1 in Section 4.12 Monitoring, Review and Enforcement states:

**“Objective 1**

***A District Plan which addresses relevant issues and concerns consistent with the purpose and principles of sustainable resource management.”***

Supporting policies refer to monitoring the state of the environment. The Commission notes in this context that the origins of PC 49 go back to a May 2012 monitoring report prepared on the Earthworks provisions of the Operative District Plan.

The Commission considers that PC 49, as amended in accordance with the Commission’s recommendations, is consistent with those objectives and policies stated in Section 4 of the District Plan that are relevant to PC 49.

The Commission finds that the objectives, policies, rules, assessment matters and other provisions as provided for in PC 49, as amended in terms of the Commission’s recommendations, better achieve the objectives of the Operative District Plan.

The Commission is satisfied, having regard to their efficiency and effectiveness, that the objectives, policies, rules, assessment matters and other provisions provided for in PC 49, as amended in terms of the Commission’s recommendations, are the most appropriate way to achieve the relevant District Wide objectives and policies presented in Section 4 of the Operative District Plan.

## **10.0 SECTION 32 RMA**

The Commission acknowledges that the version of Section 32 that must be applied is that which came into force (in the Queenstown Lakes District) on 3 December 2013.

The Commission acknowledges that an evaluation has previously been undertaken under Section 32 of the Resource Management Act 1991 with respect to PC 49, as required by section 32 of the Act. This is presented in the Section 32 Analysis dated March 2014.

The Commission also acknowledges that a further evaluation must be undertaken for changes that have been made to PC 49 since the original Section 32 Analysis was completed. Section 32AA(1)(d)(ii) requires that such evaluation must be referred to in the decision-making record [this report] in sufficient detail to demonstrate that the further evaluation was undertaken in accordance with section 32AA.

The Commission has undertaken a further evaluation when considering PC 49. The Commission has evaluated whether, having regard to their efficiency and effectiveness, the objectives, policies, rules, assessment matters and other provisions provided for in PC 49 as amended by the Commission’s recommendations are the most appropriate way to achieve the purpose of the Act; and whether the amendments to PC 49 that are recommended by the Commission are the most appropriate way to achieve the objectives of the Operative District Plan.

When addressing the specific issues raised in submission points (in Sections 8.1 - 8.10 of this report) the Commission has identified the reasonably practicable options and has

assessed the efficiency and effectiveness of the provisions in achieving the objectives of the proposal. This report also summarises the reasons for deciding on the relevant provision in each section of the report. The Commission does not propose to re-traverse all of these matters in detail here.

The recommended amendments to PC 49 will have benefits in terms of increased clarity and flexibility. Benefits will exceed costs in terms of the environmental, economic, social and cultural effects that are anticipated from the implementation of PC 49. Provision is made for earthworks that will have limited effects on the environment; and those that have more significant potential effects on the environment will be subject to the resource consent process through which such effects on the environment can be properly assessed. It is important to note in this context that earthworks in the Ski Area Sub-Zones are exempt the rules introduced by PC 49; as are earthworks in the Special Zones apart from the Rural Visitor Zone. The status quo will therefore be maintained in these respects.

Economic growth is provided for by including enhanced provisions in Section 22 : Earthworks; and by providing for some earthworks as permitted activities. A key objective of PC 49 is to reduce the volume of resource consent applications for earthworks which in turn will facilitate economic growth and provide for the employment of those involved in undertaking earthworks necessary for development to occur in the Queenstown Lakes District.

The Commission does not consider it practical to quantify the benefits and costs that will result from PC 49.

The Commission has assessed each provision in PC 49 having regard to the contents of the submissions and further submissions and to all of the evidence that has been presented to the Commission. The Commission has determined which submissions and further submissions should be accepted, accepted in part or rejected. The Commission's overall finding is that, following further evaluation under section 32AA, PC 49 as amended in terms of the Commission's recommendations makes the most appropriate provision for achieving the District Wide objectives specified in Part 4 of the Operative District Plan.

The Commission considers that PC 49, as amended in terms of the Commission's recommendations and as presented at **Appendix 3** to this report, best achieves the purpose of the Act.

## **11.0 PART 2 RMA**

Part 2 of the Resource Management Act 1991 contains sections 5-8. These are referred to in reverse order.

Section 8 requires the Commission, in exercising its functions on PC 49, to take into account the principles of the Treaty of Waitangi. No specific issues were raised in reports or evidence to the Commission in relation to section 8.

Section 7 directs that in achieving the purpose of the Act particular regard is to be had to certain matters which include, of relevance here, the efficient use and development of natural and physical resources; the maintenance and enhancement of amenity values; and the maintenance and enhancement of the quality of the environment. The Commission is satisfied that PC 49, as amended in terms of the Commission's recommendations, will promote efficient use and development of natural and physical resources; will serve to maintain and enhance amenity values; and will serve to maintain and enhance the quality of

the environment. There are no other matters stated in section 7 which are of any particular relevance to PC 49.

Section 6 sets out a number of matters which are declared to be of national importance and directs the Commission to recognise and provide for them. The matters of national importance listed in section 6(b), (e) and (f) have been given particular consideration in this instance. These relate to the protection of outstanding natural features and landscapes from inappropriate subdivision, use and development; the relationship of Maori and their culture and traditions with their ancestral lands, water, sites, waahi tapu, and other taonga; and the protection of historic heritage from inappropriate subdivision, use and development.

Section 5 sets out the purpose of the Act – to promote the sustainable management of natural and physical resources. Taking into account the definition of sustainable management contained in section 5(2) the Commission has reached the view that PC 49, as amended in terms of the Commission's recommendations, will achieve the purpose of the Act.

## 12.0 OUTCOME

Following the Commission's consideration of Plan Change 49 and the submissions and further submissions received thereto the Commission has concluded that submissions and further submissions should be accepted, accepted in part or rejected as detailed in Sections 8.1 – 8.10 of this report. The Commission has formulated these recommendations having regard to the matters to be considered in terms of section 74, the provisions of section 32, to Part 2 and, in particular, to the purpose of the Act as set out in section 5. The outcome of the Commission's consideration is that the Commission **recommends** that Plan Change 49, as amended in terms of the Commission's recommendations, should be incorporated into the Queenstown Lakes District Plan.

The Commission has presented recommendations with respect to the acceptance, acceptance in part or rejection of submissions and further submissions that relate to matters relevant to PC 49. The Commission has also provided the provisions of PC 49, as amended by the Commission's recommendations, at **Appendix 3** to this report.

This report incorporating recommendations on Plan Change 49 is dated **29 May 2015**.



**DAVID WHITNEY**  
**COMMISSIONER**

## **Appendix 1 – List of Submitters and Further Submitters to Plan Change 49**

Those submitters marked with an asterisk(\*) also made a further submission.

<b>Submitter</b>	<b>Submission Number (as used in Summary at Appendix 2)</b>
Barley Station Ltd	49/21
Blackmans Creek Holdings No 1 LP	49/1
BP Oil NZ Ltd, Mobil Oil NZ Ltd & Z Energy Limited (The Oil Companies)	49/55
Cambricare NZ Ltd	49/18
Cardrona Alpine Resort	49/26
Challenge Manawatu Ltd	49/19
Coronet Estates Ltd, Wakatipu Retreat Ltd, Malaghans Park Ltd & Arrowtown Downs Ltd	49/15
Coronet View Holdings Ltd	49/2
Drew, Dave	49/27
Gibbston Valley Station	49/28
Glencoe Land Development Company Ltd	49/3
Glencoe Station Ltd	49/4
Glencoe Station Limited	49/30
Glen Dene Ltd	49/29
Glentui Heights Ltd	49/22
Halfway Bay Station, Allendale Farm, and Greenvale Farm	49/23
Heritage New Zealand *	49/31
IHG Queenstown Ltd & Carter Queenstown Ltd	49/20
Jacks Point Residents and Owners Association Inc.	49/5
John Edmonds and Associates Ltd	49/32
Kāi Tahu ki Otago Ltd	49/33
Kennedy, Patrick	49/34
Kunath, Mark	49/35

Lake's Edge Developments Ltd	49/6
Lake Wakatipu Station Limited	49/36
Lemaire-Sicre, Roland and Keri	49/37
McArthur, Ian	49/38
McAuliffe Stevens Registered Architects	49/39
McLeod, Bruce	49/40
Mee, Mike	49/41
Millbrook Country Club Ltd	49/42
R Monk and Cook Adam Trustees Ltd	49/24
Mount Farm Ventures Ltd	49/43
Mt Cardrona Station Ltd	49/7
Mt Christina Ltd	49/8
Otago Regional Council	49/44
Parkins Bay Preserve Limited	49/9
Paterson Pitts Partners (Wanaka) Ltd	49/45
Pisidia Holdings Ltd	49/10
QTN Farm Ltd (now Remarkables Country Limited)	49/16
Queenstown Airport Corporation *	49/46
Queenstown Central Ltd	49/47
Queenstown Corporation Ltd	49/11
Queenstown Trails Trust	49/48
RCL Queenstown Pty Ltd	49/49
Real Journeys Limited	49/12
Remarkables Park Ltd	49/50
Remarkables Park Stud Farm Ltd	49/17
Royalburn Farm	49/25
Shotover Country Limited	49/51

Shotover Park Ltd	49/52
Southern Hemisphere Proving Grounds	49/53
Stewart, Robert	49/13
Te Anau Developments Ltd	49/54
Transpower New Zealand Ltd	49/56
Treble Cone Investments Limited	49/14
Trojan Holdings Ltd	49/57
Woodlot Properties	49/58

## Appendix 2

### Plan Change 49 Summary of Submissions and Further Submissions Sorted by Submission Number

Note: Key to Further Submitters appears on final page

Name	Position	Plan Provision	Decision Requested	Submission Number	Further Submissions
<i>Blackmans Creek Holdings No 1 LP</i>	Other	Purpose	That the first two paragraphs in Section 22.1 be reversed, in order to reinstate the original order of focus and to achieve consistency with the order of the objectives and policies.	49/1/1	
<i>Blackmans Creek Holdings No 1 LP</i>	Oppose	Objectives	Delete Objective 2 (and if necessary for clarity, cross reference the Part 4.2 District Wide objectives and policies relevant to landscape and visual amenity values); and  Amend Objective 4 by deleting the words "subject to objective 2"	49/1/2	
<i>Blackmans Creek Holdings No 1 LP</i>	Other	Policies	Delete 2.1 - 2.4 (and if necessary for clarity, cross reference the Part 4.2 District Wide objectives and policies relevant to landscape and visual amenity values).	49/1/3	
<i>Blackmans Creek Holdings No 1 LP</i>	Partly Support	Assessment matters	Retain assessment matter 22.4(iv) (landscape and visual amenity) but add a specific assessment matter requiring consideration of the zone within which the earthworks are being carried out and the relevant objectives and policies.	49/1/4	
<i>Blackmans Creek Holdings No 1 LP</i>	Other	Objectives	In Objective 1 amend "...avoids, adverse effects,,," to read "...avoids, remedies, or mitigates adverse effects...'"	49/1/5	
<i>Blackmans Creek Holdings No 1 LP</i>	Other	Policies	In Policies 1.2 and 1.5 amend "...avoids, adverse effects,,," to read "...avoids, remedies, or mitigates adverse effects...'"	49/1/6	
<i>Blackmans Creek Holdings No 1 LP</i>	Oppose	Site Standards	That all provisions which impose a earthworks volume trigger level for consent purposes, or which relate to an earthworks volume trigger control rule or requirement, be deleted.	49/1/7	
<i>Blackmans Creek Holdings No 1 LP</i>	Other	Site Standards	Possibly insert a new Site Standard specifying permissible hours of operation for earthworks activities in specified zones, or within all zones other than the Rural General Zone.	49/1/8	
<i>Blackmans Creek Holdings No 1 LP</i>	Other	Site standards	Amend or delete any rules which purport to determine consent activity status as a consequence of the relevant earthworks activity being located within an ONL or an ONF; OR  If this is legally valid, defer the operative date of any such rules until a review of the District Plan identifies the ONL/ONF boundaries as part of the District Plan.	49/1/9	
<i>Blackmans Creek Holdings No 1 LP</i>	Oppose	Site Standards	Delete Rule 22.3.2.4(b) Bulk Earthworks and all other plan provisions relating to that consent category.	49/1/10	

Name	Position	Plan Provision	Decision Requested	Submission Number	Further Submissions
<i>Blackmans Creek Holdings No 1 LP</i>	Other	Non notification	Amend Rule 22.3.2.6 in order to: - Simplify the rule (noting that it is currently badly drafted and difficult to understand); and to - Provide for a default position that applications for consent for earthworks do not need to be notified (possibly subject to exceptions), noting that the primary exception would be a breach of the height of cut and fill slope, in which case the starting presumption should be limited notification to the relevant adjoining landowner.	49/1/11	49/46/15 QAC – O/P
<i>Blackmans Creek Holdings No 1 LP</i>	Other	Policies	Re-draft Policy 1.2 in order to address the following concerns: In order to be consistent, the desired outcomes should be clearly stated and obvious in all six bullet points. - In the second and sixth bullet points, the second part commencing "...to avoid...etc" should be deleted. - The fourth and fifth bullet points refer to "construction". This word is unnecessary and potentially inappropriate when referring to earthworks activities and should be deleted from the fourth bullet point and replaced by the words "earthworks activities". - In the fifth bullet point the words "...taking into account the receiving environment...." should be deleted because this should be considered for every consent.	49/1/12	
<i>Blackmans Creek Holdings No 1 LP</i>	Other	Policies	Re-draft Policy 3.2 to read "...avoid or mitigate any adverse effects caused by de-watering".	49/1/13	
<i>Blackmans Creek Holdings No 1 LP</i>	Other	Policies	Re-draft Policy 3.3 as follows (or similar) in order to acknowledge that it is impossible to avoid earthworks on steeply sloping sites and that such earthworks will not necessarily have adverse effects and to remove the contradiction between the first sentence, which requires avoidance, and the second sentence, which anticipates non-avoidance. "To avoid the adverse effects of earthworks on steeply sloping sites, where land is prone to erosion or instability, where practicable. Where these effects cannot be avoided, to ensure techniques are adopted that minimise the potential to decrease land stability".	49/1/14	
<i>Blackmans Creek Holdings No 1 LP</i>	Other	Policies	As Policies 4.1 - 4.4 appear to be applicable only to the Rural General zone, the heading should be reworded "Earthworks in the Rural General Zone".  The reference to Ski Area Subzones is unnecessary because those sub-zones are located within the Rural General Zone. The reference in Policy 4.4 to ".....skifields..." should be amended to read "...recreational activities....".	49/1/15	

Name	Position	Plan Provision	Decision Requested	Submission Number	Further Submissions
<i>Blackmans Creek Holdings No 1 LP</i>	Other	Policies	With regard to Policy 5.2, the following points are noted: - If the only concern about locating earthworks within close proximity to water bodies is sediment runoff, then Policy 5.1 fully addresses the issue and Policy 5.2 should be deleted, as there is no need to avoid earthworks if no adverse effects will arise. If Policy 5.2 is retained, then delete the second sentence as it repeats Policy 5.1. - There is no need to list the four main aquifers in Policy 5.3 as they have already been noted in the final paragraph of Section 22.1. the reference to "...including....etc" can be deleted.	49/1/16	
<i>Blackmans Creek Holdings No 1 LP</i>	Other	Policies	In Policies 6.4 and 6.5 (and elsewhere within PC49), amend references to "NZ Historic Places Trust" to read "Heritage New Zealand Pouhere Taonga" and references to "Historic Places Act 1993" to read "Heritage New Zealand Pouhere Taonga Act 2014".	49/1/17	
<i>Blackmans Creek Holdings No 1 LP</i>	Other	General provisions/ cross referencing	The heading to Rule 22.3.1, which reads "General Provisions/Cross-Referencing" is confusing and would be better worded to read "Cross-Referencing/Other Legislation".	49/1/18	
<i>Blackmans Creek Holdings No 1 LP</i>	Other	Site standards	The wording of Rule 22.3.ii(a) is awkward and should be replaced with: "(i) That are approved as part of a subdivision consented under Rule 15.2.20; or..."  Assuming Subclause (ii) is intended to apply to consents which precede PC49 and are therefore not consented under proposed new Rule 15.2.20 then to overcome a0 ambiguities in the operative District plan regarding whether earthworks which form part of a subdivision activity are dealt with and consented under Part 15 or require separate land use consent and b) the inaccuracy of the 'changeover' date stated in the proposed provision, re-word subparagraph (ii) as follows: "(ii) That are approved as part of a subdivision consented prior to [date of release of Council decisions on submissions to PC49]". Include a specific exemption in Rule 22.3.1.ii(a) for earthworks associated with the construction of a house within an approved residential building platform.	49/1/19	49/46/1 QAC – O/P
<i>Blackmans Creek Holdings No 1 LP</i>	Other	General provisions/ cross referencing	Delete Rule 22.3.1.(iii) (re noise) as there is no need for a cross-reference here because the later rule is located in this Part 22.	49/1/20	
<i>Blackmans Creek Holdings No 1 LP</i>	Other	General provisions/ cross referencing	In respect of Rule 22.3.1.iv Archaeological Sites: - Because there is no definition of "archaeological sites", either in the District Plan or in the RMA, the first sentence of subparagraph a) is unclear, unnecessary, and potentially inaccurate and the second sentence adds nothing and therefore both should be deleted. - Subparagraph 9b) should be deleted as a0 it appears to be a definition, and therefore is in the wrong place and b) is unnecessary. - Subparagraph (c) is inappropriate and should be deleted as the statement is incorrect; there is already a cross-reference to Part 13 in Rule 22.3.1.i.(a)(i); and sub-paragraph a0 adequately deals with this issue.	49/1/21	49/31/29 HNZ – O/P

<b>Name</b>	<b>Position</b>	<b>Plan Provision</b>	<b>Decision Requested</b>	<b>Submission Number</b>	<b>Further Submissions</b>
<i>Blackmans Creek Holdings No 1 LP</i>	Other	Rules - levels of activities	Rule 22.3.2.1(b)(i) should be amended by replacing the word "exposed" with "the"	49/1/22	
<i>Blackmans Creek Holdings No 1 LP</i>	Other	Rules - levels of activities	Clarify why the words in Rules 22.2.2(c)(ii) and (vii) and 22.3.2.3(b)(ii) and (vii) are capitalised, or amend	49/1/23	
<i>Blackmans Creek Holdings No 1 LP</i>	Other	Site standards	In relation to the final bullet point in Tiers 2, 3, 4, and 5 (relating to Special Zone Activity Areas) in Table 22.1 (Rule 22.3.3(i), the following points are noted, assuming the volume 'trigger' control rule and approach of having a number of Tiers is retained: - It is necessary that a District plan provides certainty regarding consent status. - The four bullet points refer to different specific zones which do not necessarily apply within all of the Special zones. - That degree of ambiguity is unnecessary and inappropriate.	49/1/24	
<i>Blackmans Creek Holdings No 1 LP</i>	Other	Site standards	Clarify why the first bullet point of Rule 22.3.3.i, Table 22.1, Tier 6, refers to Section 5.3.5.1(v) instead of referring directly to Appendix 5.	49/1/25	
<i>Blackmans Creek Holdings No 1 LP</i>	Other	Assessment matters	Delete the words "The effects on traffic generated and..." in Rule 22.4.(ii)(e) as the justification for those words is unclear in that noise is covered by a separate Site Standard; hours of operation are dealt with by the preceding subclause (d); deposition of sediment is dealt with elsewhere in this subclause and by a separate Site Standard; and the purpose of roads is to accommodate traffic.	49/1/26	
<i>Blackmans Creek Holdings No 1 LP</i>	Other	Assessment matters	In respect of assessment matter 22.4.(ii)(f) regarding the track record of the applicant/operator: - When most applications for resource consent involving earthworks are made, the choice of earthworks contractor has yet to be made. If this new rule intends to impose a requirement that such choice be made when the consent application is made, then the requirement is unreasonable. If that is not the intention, then the new rule is pointless. - Compliance with resource consent conditions is an enforcement / compliance matter. It is inappropriate to include such a consideration in a consent assessment of this nature.	49/1/27	

Name	Position	Plan Provision	Decision Requested	Submission Number	Further Submissions
<i>Blackmans Creek Holdings No 1 LP</i>	Other	Assessment matters	<p>Rule (assessment matter) 22.4.vii(c) should be deleted as:</p> <ul style="list-style-type: none"> <li>- Archaeological sites do not necessarily have to be protected through District Plan provisions and Council should consider any other statutory regimes in place to ensure that any required policy direction is implemented.</li> <li>- The rule (assessment matter) implies that the Archaeological Authority should be obtained first, which will potentially add months of delay to the consenting process without justification.</li> <li>- The rule implies that, if an Archaeological Authority has not been obtained, the Council may impose conditions on the relevant earthworks consent in respect of any archaeological site, which risks consent conditions being inconsistent with those of the Archaeological Authority. this is both inefficient and inappropriate.</li> <li>- This issue can easily be addressed by the Council including a standard condition in every earthworks consent requiring the consent holder not to carry out ant earthworks which would damage a pre-1900 archaeological site without first obtaining the required Archaeological Authority from Heritage New Zealand Pouhere Taonga.</li> </ul>	49/1/28	49/31/30 HNZ – O/P
<i>Blackmans Creek Holdings No 1 LP</i>	Other	Definitions	If it is considered necessary to insert definitions of "Bed" and "River" into the District Plan, then they should not be quoted in full but should be directly cross-referenced, as is the case with the definition of Building (which cross-references to the Building Act 1991) and the definition of "Road" (which cross-references to the Local Government Act 1974).	49/1/29	
<i>Blackmans Creek Holdings No 1 LP</i>	Other	General	Such alternative, additional or consequential amendments to the PC49 Plan Provisions as may be considered necessary or appropriate in order to address the issues raised in this submission.	49/1/30	
<i>Blackmans Creek Holdings No 1 LP</i>	Other	Rules - Levels of Activities	<p>Amend Rule 22.3.2.1(b) by amending subclause (i) by deleting subclause (e) relating to trails and operational areas within Ski Area Sub-Zones.</p> <p>Delete Rule 22.3.2.1(c)(i) relating to approvals by the Department of Conservation.</p> <p>Amend Rule 22.3.2.1(c)(ii) by exempting earthworks within Ski Area Sub-Zones from Rule 22.3.3 and Rule 22.3.2.4 (b). Make any other amendments that are required to ensure that all earthworks within a Ski Area Sub-Zone are a permitted activity.</p>	49/1/31	
<i>Coronet View Holdings Ltd.</i>			Refer to points 1 - 30 of Blackmans Creek Holdings No 1 LP	49/2/1-30	49/46/2 (re 49/2/19) QAC – O/P; 49/46/16 (re 49/2/11) QAC – O/P

Name	Position	Plan Provision	Decision Requested	Submission Number	Further Submissions
<i>Coronet View Holdings Ltd.</i>		Site Standards	<p>Amend Rule 22.3.2.1 (b) by adding a new subclause (iv) as follows:            "(iv) In the Jacks Point Zone, earthworks in relation to the construction, addition or alteration of any building and earthworks in relation to golfcourse development."</p> <p>- Amend Rule 22.3.2.2(b) by deleting the words "...and/ or 2,500m2 of exposed topsoil...". Delete rule 22.3.2.4(c). Amend Tier 7 (middle column) in Rule 22.3.3(i), Table 22.1 to read as follows: "...Any zone or Special Zone Activity Area not listed in Tier 1 to 6 provided that this does not apply to Ski Area Sub-Zones or to earthworks within the Jacks Point Zone associated with golfcourses development exceeding 1,000m3 in volume."</p>	49/2/31	
<i>Glencoe Land Development Company Ltd.</i>			Refer to points 1 - 30 of Blackmans Creek Holdings No 1 LP	49/3/1-30	49/46/3 (re 49/3/19) QAC – O/P; 49/46/18 (re 49/3/11) QAC – O/P
<i>Glencoe Land Development Company Ltd.</i>	Other	Rules - Levels of Activities	<p>Amend Rule 22.3.2.1(b) by amending subclause (i) by deleting subclause (e) relating to trails and operational areas within Ski Area Sub-Zones.</p> <p>Delete Rule 22.3.2.1(c)(i) relating to approvals by the Department of Conservation.</p> <p>Amend Rule 22.3.2.1(c)(ii) by exempting earthworks within Ski Area Sub-Zones from Rule 22.3.3 and Rule 22.3.2.4 (b). Make any other amendments that are required to ensure that all earthworks within a Ski Area Sub-Zone are a permitted activity.</p>	49/3/31	
<i>Glencoe Station Ltd.</i>			Refer to points 1 - 30 of Blackmans Creek Holdings No 1 LP	49/4/1-30	49/46/4 (re 49/4/19) QAC – O/P; 49/46/19 (re 49/4/11) QAC – O/P
<i>Glencoe Station Ltd.</i>	Other	Rules - Levels of Activities	<p>Amend Rule 22.3.2.1(b) by amending subclause (i) by deleting subclause (e) relating to trails and operational areas within Ski Area Sub-Zones.</p> <p>Delete Rule 22.3.2.1(c)(i) relating to approvals by the Department of Conservation.</p> <p>Amend Rule 22.3.2.1(c)(ii) by exempting earthworks within Ski Area Sub-Zones from Rule 22.3.3 and Rule 22.3.2.4 (b). Make any other amendments that are required to ensure that all earthworks within a Ski Area Sub-Zone are a permitted activity.</p>	49/4/31	

<b>Name</b>	<b>Position</b>	<b>Plan Provision</b>	<b>Decision Requested</b>	<b>Submission Number</b>	<b>Further Submissions</b>
<i>Jacks Point Residents and Owners Association Inc.</i>			Refer to points 1 - 30 of Blackmans Creek Holdings No 1 LP	49/5/1-30	49/46/5 (re 49/5/19) QAC – O/P; 49/46/20 (re 49/5/11) QAC – O/P
<i>Jacks Point Residents and Owners Association Inc.</i>			Amend Rule 22.3.2.1 (b) by adding a new subclause (iv) as follows: "(iv) In the Jacks Point Zone, earthworks in relation to the construction, addition or alteration of any building and earthworks in relation to golfcourse development."  - Amend Rule 22.3.2.2(b) by deleting the words "...and/ or 2,500m2 of exposed topsoil...". Delete rule 22.3.2.4(c). Amend Tier 7 (middle column) in Rule 22.3.3(i), Table 22.1 to read as follows: "...Any zone or Special Zone Activity Area not listed in Tier 1 to 6 provided that this does not apply to Ski Area Sub-Zones or to earthworks within the Jacks Point Zone associated with golfcourse development exceeding 1,000m3 in volume."	49/5/31	
<i>Lake's Edge Developments Ltd.</i>			Refer to points 1 - 30 of Blackmans Creek Holdings No 1 LP	49/6/1-30	49/46/6 (re 49/6/19) QAC – O/P; 49/46/22 (re 49/6/11) QAC – O/P
<i>Mt Cardrona Station Ltd.</i>			Refer to points 1 - 30 of Blackmans Creek Holdings No 1 LP	49/7/1-30	49/46/7 (re 49/7/19) QAC – O/P; 49/46/23 (re 49/7/11) QAC – O/P
<i>Mt Cardrona Station Ltd.</i>	Oppose	Site Standards	Amend Rule 22.3.2.2 by inserting a new subparagraph (e) as follows: "(e) In the Mount Cardrona Station Zone, earthworks for the purposes of activities listed in Controlled Activity Rule 12.22.3.2.(iii) are exempt from Rule 22.3.3 and Rule 22.3.2.4(b)."	49/7/31	
<i>Mt Christina Ltd.</i>			Refer to points 1 - 30 of Blackmans Creek Holdings No 1 LP	49/8/1-30	49/46/8 (re 49/8/19) QAC – O/P; 49/46/24 (re 49/8/11) QAC – O/P
<i>Parkins Bay Preserve Limited</i>			Refer to points 1 - 30 of Blackmans Creek Holdings No 1 LP	49/9/1-30	49/46/9 (re 49/9/19) QAC – O/P; 49/46/25 (re 49/9/11) QAC – O/P

<b>Name</b>	<b>Position</b>	<b>Plan Provision</b>	<b>Decision Requested</b>	<b>Submission Number</b>	<b>Further Submissions</b>
<i>Pisidia Holdings Ltd.</i>			Refer to points 1 - 30 of Blackmans Creek Holdings No 1 LP	49/10/1-30	49/46/10 (re 49/10/19) QAC – O/P; 49/46/27 (re 49/10/11) QAC – O/P
<i>Queenstown Corporation Ltd.</i>			Refer to points 1 - 30 of Blackmans Creek Holdings No 1 LP	49/11/1-30	49/46/11 (re 49/11/19) QAC – O/P; 49/46/29 (re 49/11/11) QAC O/P
<i>Real Journeys Limited</i>			Refer to points 1 - 30 of Blackmans Creek Holdings No 1 LP	49/12/1-30	49/46/12 (re 49/12/19) QAC – O/P; 49/46/30 (re 49/12/11) QAC – O/P
<i>Real Journeys Limited</i>			Amend Rule 22.3.2.1(b) by amending subclause (i) by deleting subclause (e) relating to trails and operational areas within Ski Area Sub-Zones.  Delete Rule 22.3.2.1(c)(i) relating to approvals by the Department of Conservation.  Amend Rule 22.3.2.1(c)(ii) by exempting earthworks within Ski Area Sub-Zones from Rule 22.3.3 and Rule 22.3.2.4 (b). Make any other amendments that are required to ensure that all earthworks within a Ski Area Sub-Zone are a permitted activity.	49/12/31	
<i>Stewart, Robert</i>			Refer to points 1 - 30 of Blackmans Creek Holdings No 1 LP	49/13/1-30	49/46/13 (re 49/13/19) QAC – O/P; 49/46/32 (re 49/13/11) QAC – O/P
<i>Treble Cone Investments Limited</i>			Refer to points 1 - 30 of Blackmans Creek Holdings No 1 LP	49/14/1-30	49/46/14 (re 49/14/19) QAC – O/P; 49/46/34 (re 49/14/11) QAC – O/P

Name	Position	Plan Provision	Decision Requested	Submission Number	Further Submissions
<i>Treble Cone Investments Limited</i>	Other	Rules - Levels of Activities	Amend Rule 22.3.2.1(b) by amending subclause (i) by deleting subclause (e) relating to trails and operational areas within Ski Area Sub-Zones.  Delete Rule 22.3.2.1(c)(i) relating to approvals by the Department of Conservation.  Amend Rule 22.3.2.1(c)(ii) by exempting earthworks within Ski Area Sub-Zones from Rule 22.3.3 and Rule 22.3.2.4 (b). Make any other amendments that are required to ensure that all other earthworks within a Ski Area Sub-Zone are a permitted activity.	49/14/31	
<i>Coronet Estates Ltd, Wakatipu Retreat Ltd, Malaghans Park Ltd, and Arrowtown Downs Ltd.</i>	Oppose	General	That Council withdraws PC49 and undertakes consultation to determine how best to achieve the purpose of the Act.  That the re-notified provisions achieve the aims of the Plan Change as expressed in the public notice and Section 32 report; that is, to make earthworks more permissive, more streamlined and less complex; OR Should the Council continue with PC49 as notified, that the provisions are amended to achieve the goal of streamlining the provisions. This could be achieved by: Removing the number and complexity of objectives and policies. removing repetition, and removing those policy provisions that are not necessary. Reducing the number of assessment matters. Including earthworks provisions within each zone, as is currently the case.	49/15/1	
<i>Coronet Estates Ltd, Wakatipu Retreat Ltd, Malaghans Park Ltd, and Arrowtown Downs Ltd.</i>	Other	Site Standards	That the level of earthworks allowed on a site be adjusted on a sliding scale to recognise that larger sites can absorb a larger volume of earthworks.	49/15/2	49/46/45 QAC-S
<i>Coronet Estates Ltd, Wakatipu Retreat Ltd, Malaghans Park Ltd, and Arrowtown Downs Ltd.</i>	Other	Objectives	That, should the Council decide not to withdraw PC49: - The objectives are amended to recognise that it is not necessary to 'avoid' effects, but to recognise that adverse effects can be 'remedied' or 'mitigated'; and - Consideration is given to how the proposed objectives and policies relate to one another.	49/15/3	
<i>Coronet Estates Ltd, Wakatipu Retreat Ltd, Malaghans Park Ltd, and Arrowtown Downs Ltd.</i>	Other	Policies	That, should the Council decide not to withdraw PC49: - The policies are amended to recognise that it is not necessary to 'avoid' effects, but to recognise that adverse effects can be 'remedied' or 'mitigated'; and - Consideration is given to how the proposed objectives and policies relate to one another.	49/15/4	

<b>Name</b>	<b>Position</b>	<b>Plan Provision</b>	<b>Decision Requested</b>	<b>Submission Number</b>	<b>Further Submissions</b>
<i>Coronet Estates Ltd, Wakatipu Retreat Ltd, Malaghans Park Ltd, and Arrowtown Downs Ltd.</i>	Other	Definitions	That, should the Council decide not to withdraw PC49, the definition of earthworks is not changed as it relates to the exemption of the planting of trees, landscaping etc.	49/15/5	
<i>Coronet Estates Ltd, Wakatipu Retreat Ltd, Malaghans Park Ltd, and Arrowtown Downs Ltd.</i>	Partly Support	Rules - Levels of Activities	Earthworks for the formation of farm tracks should be considered as a permitted activity. The exemption for maintenance of tracks is supported, but this should be taken further and extended to include the formation of farm tracks.	49/15/6	49/31/10 HNZ - O
<i>Coronet Estates Ltd, Wakatipu Retreat Ltd, Malaghans Park Ltd, and Arrowtown Downs Ltd.</i>	Other	Rules - Levels of Activities	Should the Council continue with PC49 as notified, that the rules for maintenance and creation of trails be more permissive, recognising the importance of trail development and maintenance for this District.	49/15/7	49/31/11 HNZ - O
<i>QTN Farm Ltd</i>			Refer to points 1 - 7 of Coronet Estates Ltd, Wakatipu Retreat Ltd, Malaghans Park Ltd, and Arrowtown Downs Ltd.	49/16/1-7	49/31/12 & 13 (re 49/16/16 & 7) HNZ – O; 49/16/36 (re 49/16/2) QAC – S
<i>Remarkables Park Stud Farm Ltd</i>			Refer to points 1 - 7 of Coronet Estates Ltd, Wakatipu Retreat Ltd, Malaghans Park Ltd, and Arrowtown Downs Ltd.	49/17/1-7	49/31/14 & 15 (re 49/17/6 & 7) HNZ – O; 49/46/37 (re 49/17/2) QAC – S
<i>Cambricare NZ Ltd.</i>	Other	Objectives	That the proposed objectives be revised to more explicitly recognise the benefits of earthworks and ensure that in most parts of the District, including urban areas, primacy is not given to the protection of existing landforms at the expense of modifications associated with appropriate use and development. And That objectives and policies be amended to recognise that mitigation and remediation of effects arising from earthworks will often be an appropriate course of action.	49/18/1	
<i>Cambricare NZ Ltd.</i>	Other	Policies	That the proposed policies be revised to more explicitly recognise the benefits of earthworks and ensure that in most parts of the District, including urban areas, primacy is not given to the protection of existing landforms at the expense of modifications associated with appropriate use and development. And That objectives and policies be amended to recognise that mitigation and remediation of effects arising from earthworks will often be an appropriate course of action.	49/18/2	

Name	Position	Plan Provision	Decision Requested	Submission Number	Further Submissions
<i>Cambricare NZ Ltd.</i>	Other	Policies	That Policy 3.2 be amended to ensure that there is no presumption against de-watering but rather that potential adverse effects of this practice are avoided, remedied or mitigated.	49/18/3	
<i>Cambricare NZ Ltd.</i>	Other	Site standards	That the following rules be either deleted, made more enabling or a justification for the proposed restriction on earthworks be adequately provided:  - Rule 22.3.3.1(a) - control on the volume of earthworks. - Rule 22.3.3 ii (b) (i) and (ii) - Controls on cut and fill. Rule 22.3.3 ii (b) iii - restrictions on earthworks near boundaries.	49/18/4	49/31/1 – HNZ - O
<i>Cambricare NZ Ltd.</i>	Oppose	Rules - Levels of Activities	That provisions relating to bulk earthworks in both the proposed Earthworks section and Subdivision section be deleted.  That the following rule be either deleted, made more enabling or a justification for the proposed restriction on earthworks adequately provided: The widespread use of restricted discretionary status for various earthworks consents, as opposed to controlled activity status.	49/18/5	
<i>Cambricare NZ Ltd.</i>	Other	Assessment matters	That the proposed assessment matters are amended as necessary to ensure they pragmatically provide for rural activities and are consistent with objectives and policies.	49/18/6	
<i>Cambricare NZ Ltd.</i>	Other	General	Such alternative, additional or consequential amendments to the PC49 Plan Provisions as may be considered necessary or appropriate in order to address the issues raised in this submission.	49/18/7	
<i>Cambricare NZ Ltd.</i>	Other	Non-notification	That the following rule be either deleted, made more enabling or a justification for the proposed restriction on earthworks adequately provided:  - Rule 22.3.2.6 - Rules enabling notification of applications for earthworks for restricted discretionary activities.	49/18/8	
<i>Challenge Manawatu Ltd.</i>			Refer to points 1 - 8 of Cambricare NZ Ltd.	49/19/1-8	49/31/2 (re 49/19/4) HNZ – O
<i>IHG Queenstown Ltd and Carter Queenstown Ltd.</i>			Refer to points 1 - 8 of Cambricare NZ Ltd.	49/20/1-8	49/31/3 (re 49/20/4) HNZ - O
<i>Barley Station Ltd</i>	Other	Objectives	That the proposed objectives be revised to more explicitly recognise the benefits of earthworks and ensure that in most parts of the District primacy is not given to the protection of existing landforms at the expense of modifications associated with appropriate use and development. And That objectives be amended to recognise that mitigation and remediation of effects arising from earthworks will often be an appropriate course of action.	49/21/1	

Name	Position	Plan Provision	Decision Requested	Submission Number	Further Submissions
<i>Barley Station Ltd</i>	Other	Policies	That the proposed policies be revised to more explicitly recognise the benefits of earthworks and ensure that in most parts of the District primacy is not given to the protection of existing landforms at the expense of modifications associated with appropriate use and development. And That objectives be amended to recognise that mitigation and remediation of effects arising from earthworks will often be an appropriate course of action.	49/21/2	
<i>Barley Station Ltd</i>	Other	Site standards	That the following rules be either deleted, made more enabling or a justification for the proposed restriction on earthworks be adequately provided: - Rule 22.3.3.1(a) - control on the volume of earthworks. - Rule 22.3.3 ii (b) (i) and (ii) - Controls on cut and fill. Rule 22.3.3 ii (b) iii restrictions on earthworks near boundaries.	49/21/3	49/31/4 HNZ - O
<i>Barley Station Ltd</i>	Other	Non-notification	That the following rule be either deleted, made more enabling or a justification for the proposed restriction on earthworks adequately provided:  - Rule 22.3.2.6 - Rules enabling notification of applications for earthworks within a setback from a boundary	49/21/4	
<i>Barley Station Ltd</i>	Other	Rules - Levels of Activities	That the following rule be either deleted, made more enabling or a justification for the proposed restriction on earthworks adequately provided: - The widespread use of restricted discretionary or discretionary status for various earthworks consents, as opposed to controlled activity status. That the Hearings Panel give consideration to whether more enabling rules are appropriate than provided for as part of maintenance under Rule 22.3.2.1 (b) in order to allow normal rural activities, and to make amendments accordingly.	49/21/5	
<i>Barley Station Ltd</i>	Other	Assessment matters	That the proposed assessment matters are amended as necessary to ensure they pragmatically provide for rural activities and are consistent with objectives and policies.	49/21/6	
<i>Barley Station Ltd</i>	Other	General	That such alternative, additional or consequential amendments to the PC49 Plan Provisions as may be considered necessary or appropriate in order to address the issues raised in this submission.	49/21/7	
<i>Barley Station Ltd</i>	Oppose	Sire Standards	That the volume limit specific to Outstanding Natural Landscapes, Outstanding Natural Features and Heritage Landscapes be deleted.	49/21/8	49/31/28 HNZ – O
<i>Glentui Heights Ltd.</i>			Refer to points 1 - 7 of Barley Station Ltd	49/22/1-7	49/31/5 (re 49/22/3) HNZ – O
<i>Halfway Bay Station, Allendale Farm, and Greenvale Farm )</i>			Refer to points 1 - 7 of Barley Station Ltd	49/23/1-7	49/31/6 (re 49/23/3) HNZ – O
<i>Halfway Bay Station, Allendale Farm, and Greenvale Farm</i>	Oppose	Site standards	That the volume limit specific to Outstanding Natural Landscapes, Outstanding Natural Features and Heritage Landscapes be deleted.	49/23/8	49/31/27 HNZ – O

Name	Position	Plan Provision	Decision Requested	Submission Number	Further Submissions
<i>R Monk and Cook Adam Trustees Ltd.</i>			Refer to points 1 - 7 of Barley Station Ltd	49/24/1-7	49/31/7 (re 49/24/3) HNZ – O
<i>Royalburn Farm</i>			Refer to points 1 - 7 of Barley Station Ltd	49/25/1-7	
<i>Royalburn Farm</i>	Oppose	Site standards	That the volume limit specific to Outstanding Natural Landscapes, Outstanding Natural Features and Heritage Landscapes be deleted.	49/25/8	49/31/26 HNZ - O
<i>Cardrona Alpine Resort</i>	Oppose	Objectives	Amend Objective 1 to read "avoids, remedies, or mitigates adverse effects"	49/26/1	
<i>Cardrona Alpine Resort</i>	Oppose	Policies	Amend Policies 1.2 and 1.5 to read "avoids, remedies, or mitigates adverse effects"	49/26/2	
<i>Cardrona Alpine Resort</i>	Oppose	Objectives	Delete Objective 2 and delete the words "subject to Objective 2" from Objective 4.  Amend Objective 4 to read "to enable earthworks that ... and the development and operation of ski areas."	49/26/3	
<i>Cardrona Alpine Resort</i>	Oppose	Policies	Delete Policies 2.1 - 2.4	49/26/4	
<i>Cardrona Alpine Resort</i>	Oppose	Rules - Levels of Activities	Amend Rule 22.3.2.1(i)(e) by deleting the words "provided that the maintenance work results in less than a 10% increase in exposed surface area of that feature in any 10 year period".  Delete 22.3.2.1(c)(i) relating to approvals by the Department of Conservation. Amend Rule 22.3.2.1 (c) (ii) by also exempting earthworks within Ski Area Sub-Zones from Rules 22.3.3 (i) , (ii), (iv) and Rule 22.3.2.4 (b) Bulk earthworks (if not deleted as proposed below). Make any other amendments that are required to ensure that all earthworks within the Ski are subzone are a permitted activity.	49/26/5	
<i>Cardrona Alpine Resort</i>	Oppose	Site Standards	Delete rule 22.3.2.4(b) Bulk earthworks and all other plan provisions relating to that consent category	49/26/6	
Oppose	Assessment matters		The assessment matters regarding ski area subzones need to allow for the reality of modern ski fields where earthworks may not be "sympathetic to natural topography"; can "create an area that is inconsistent with the character of the surrounding landscape"; and the fact it is not always appropriate to re-vegetate slopes because of ongoing maintenance and safety improvements.	49/26/7	
Oppose	General		Clarify in the proposed rules which activities are controlled, restricted discretionary, discretionary, and non-complying across all zones and how the site standards relate to the activity rules.  Undertake any other amendments to the provisions as required to give effect to the submission	49/26/8	

Name	Position	Plan Provision	Decision Requested	Submission Number	Further Submissions
<i>Drew, Dave</i>	Oppose	Site standards	The specific provisions as proposed in Plan Change 49 are opposed for the following reasons:  - 300m3 is a significant volume of earthworks - It may allow features such as screening hillocks or other landscape forms otherwise legally protected to be removed as of right. 100m3 is a sufficient volume of earthworks to allow for in a residential zone.	49/27/1	
<i>Gibbston Valley Station</i>	Other	Purpose	That the first two paragraphs in Section 22.1 be reversed, in order to reinstate the original order of focus and to achieve consistency with the order of the objectives and policies.	49/28/1	
<i>Gibbston Valley Station</i>	Other	Objectives	Delete Objective 2 (and if necessary for clarity, cross reference the Part 4.2 District Wide objectives and policies relevant to landscape and visual amenity values); and  Amend Objective 4 by deleting the words "subject to objective 2"	49/28/2	
<i>Gibbston Valley Station</i>	Other	Policies	Delete 2.1 - 2.4 (and if necessary for clarity, cross reference the Part 4.2 District Wide objectives and policies relevant to landscape and visual amenity values).	49/28/3	
<i>Gibbston Valley Station</i>	Other	Assessment matters	Retain assessment matter 22.4(iv) (landscape and visual amenity) but add a specific assessment matter requiring consideration of the zone within which the earthworks are being carried out and the relevant objectives and policies.	49/28/4	
<i>Gibbston Valley Station</i>	Other	Objectives	In Objective 1 amend "...avoids, adverse effects,,," to read "...avoids, remedies, or mitigates adverse effects,,,"	49/28/5	
<i>Gibbston Valley Station</i>	Other	Policies	In Policies 1.2 and 1.5 amend "...avoids, adverse effects,,," to read "...avoids, remedies, or mitigates adverse effects,,,"	49/28/6	
<i>Gibbston Valley Station</i>	Other	Site Standards	Delete all provisions which impose a earthworks volume trigger level for consent purposes, or which relate to an earthworks volume trigger control rule or requirement.	49/28/7	
<i>Gibbston Valley Station</i>	Other	Rules - Levels of Activities	Delete Rule 22.3.2.4(b) Bulk Earthworks and all other plan provisions relating to that consent category.	49/28/8	
<i>Gibbston Valley Station</i>	Other	General	Such alternative, additional or consequential amendments to the PC49 Plan Provisions as may be considered necessary or appropriate in order to address the issues raised in this submission.	49/28/9	
<i>Gibbston Valley Station</i>	Other	Non-notification	Amend Rule 22.3.2.6 in order to: - Simplify the rule (noting that it is currently badly drafted and difficult to understand); and to - Provide for a default position that applications for consent for earthworks do not need to be notified (possibly subject to exceptions), noting that the primary exception would be a breach of the height of cut and fill slope, in which case the starting presumption should be limited notification to the relevant adjoining landowner.	49/28/10	49/46/17 QAC – O/P

Name	Position	Plan Provision	Decision Requested	Submission Number	Further Submissions
<i>Glen Dene Ltd.</i>	Other	Site standards	That the level of earthworks allowed on a site be adjusted on a sliding scale to recognise that larger sites can absorb a larger volume of earthworks, especially if the farms still being managed for farming purposes.	49/29/1	
<i>Glen Dene Ltd.</i>	Other	General	That Council withdraws PC49 and undertakes consultation to determine how best to achieve the purpose of the Act.  Should the Council continue with PC49 as notified, that the provisions are amended to achieve the goal of streamlining the provisions. This could be achieved by: Reducing the number and complexity of objectives and policies. Removing repetition and those policy provisions that are not necessary. Reducing the number of assessment matters. Including earthworks provisions within each zone, as is currently the case. General aspects of the Plan Change note supported are that it: Does not accord with, or assist the territorial authority to carry out its functions to achieve, the purpose of the Resource Management Act 1991 (the "Act"); Does not promote sustainable management; Does not meet section 32 of the Act; Does not represent integrated management or sound resource management practice; Is not the most appropriate method for achieving the objectives of the District Plan having regards to its efficiency and effectiveness, and taking into account the costs and benefits.	49/29/2	
<i>Glen Dene Ltd.</i>	Partly Support	Rules - Levels of Activities	The exemption for maintenance of tracks is supported, but this should be taken further and extended to include the formation of farm tracks across all the landscape zones if the property is being managed for farming purposes.	49/29/3	49/31/16 HNZ - O
<i>Glencoe Station Limited</i>	Other	General	Make such further, additional, or consequential changes as are considered necessary to address the issues raised in this submission and otherwise give effect to the relief sought; and  Amend the provisions in any other manner that will give effect to the submissions made.	49/30/1	
<i>Glencoe Station Limited</i>	Other	Objectives	Amend Objective 4 by adding the following words "... and the development and operation of ski fields"	49/30/2	
<i>Glencoe Station Limited</i>	Other	Rules - Levels of activities	Modify the permitted activity rule 22.3.2.1(c)(ii) to exempt all earthworks and bulk earthworks undertaken in ski area subzones where those works also trigger a requirement for Resource Consent under the clearance of indigenous vegetation under either Rule 5.3.5.1 (x) or 5.3.5.1 (xii) from the following rules and standards that apply to earthworks: Rule 22.3.2.4 (b) Bulk earthworks. Rule 22.3.3 (i) (a) - (c) Volumes Rule 22.3.3 (ii) (a) the height of cut and fill	49/30/3	
<i>Glencoe Station Limited</i>	Other	Rules - Levels of activities	Modify Rule 22.3.2.4(b) re bulk earthworks to exempt all earthworks undertaken within a ski area subzone.	49/30/4	
<i>Glencoe Station Limited</i>	Other	Non-notification	Modify Rule 22.3.2.6(a)(iii) non notification - to include all earthworks and bulk earthworks undertaken within a ski area subzone.	49/30/5	49/46/20 QAC – O/P

Name	Position	Plan Provision	Decision Requested	Submission Number	Further Submissions
<i>Glencoe Station Limited</i>	Other	Site Standards	Modify site standard 22.3.3(ii)(a) re height of cut and fill and slope to exclude earthworks and bulk earthworks occurring within a ski area subzone.	49/30/6	
<i>Heritage New Zealand</i>	Partly Support	Objectives	Approve Plan Change 49 as it relates to heritage matters subject to making the following (and other) amendments: <ul style="list-style-type: none"> <li>- Replace the reference to "New Zealand Historic Places Trust and Historic Places Trust" in Objective 6 with "Heritage New Zealand"</li> <li>- Add an additional objective 6.8: "To protect heritage buildings and structures from potential undermining and vibration effects resulting from earthworks on the same site or sites in close proximity".</li> </ul>	49/31/1	
<i>Heritage New Zealand</i>	Partly Support	Policies (policies 6.1 - 6.7)	Approve Plan Change 49 as it relates to heritage matters subject to making the following (and other) amendments: <ul style="list-style-type: none"> <li>- Replace the references to "New Zealand Historic Places Trust and Historic Places Trust" in Policies 6.1-6.7 with "Heritage New Zealand"</li> </ul>	49/31/2	
<i>Heritage New Zealand</i>	Partly Support	General provisions/ cross referencing	Adopt 22.3.1(iv)(a), b), and c) subject to: <ul style="list-style-type: none"> <li>- Replacing the references to "New Zealand Historic Places Trust and/ or Historic Places Trust" with "Heritage New Zealand"; and</li> <li>- Replacing the references to "Historic Places Act 1993" with "Heritage New Zealand Pouhere Taonga 2014".</li> </ul>	49/31/3	
<i>Heritage New Zealand</i>	Support	Rules - Levels of Activities	Adopt 22.3.2.2(c)(vii) and 22.3.2.3(b)(vii)	49/31/4	
<i>Heritage New Zealand</i>	Support	Site Standards	Adopt 22.3.3(vi)(a) re cultural heritage and archaeological sites	49/31/5	
<i>Heritage New Zealand</i>	Support	Assessment matters	Adopt 22.4.(vii)(a)-(d) subject to: <ul style="list-style-type: none"> <li>- Replacing the references to "New Zealand Historic Places Trust and/ or Historic Places Trust" with "Heritage New Zealand";</li> <li>- Adding a new assessment matter d):  "The extent to which earthworks activities have the potential to adversely affect heritage buildings or structures located in close proximity to the site of the proposed earthworks and the adequacy of any avoidance or mitigation measures put forward to address such risks or effects".</li> </ul>	49/31/6	
<i>Heritage New Zealand</i>	Other	Definitions	Add the following definition to the District Plan: Archaeological site means: a) any place in NZ, including any building or structure (or part of a building or structure), that - (i) was associated with human activity that occurred before 1900 or is the site of the wreck of any vessel where the wreck occurred before 1900; and 9ii) provides or may provide, through investigation by archaeological methods, evidence relating to the history of NZ	49/31/7	

Name	Position	Plan Provision	Decision Requested	Submission Number	Further Submissions
<i>John Edmonds and Associates Ltd</i>	Other	Objectives	Amend Objective 1 to read as follows (or similar wording): "To enable earthworks provided that they are undertaken in a manner that avoids, remedies or mitigates more than minor adverse effects on communities and the natural environment."  Either delete Objective 2 and subsequent policies 2.1 to 2.4 or specify those rural zones they apply to. Amend Objective 7 to make it clearer and more easily understood.	49/32/1	
<i>John Edmonds and Associates Ltd</i>	Other	Objectives	Restructure the objectives and policies so that many of them apply only to urban or rural zones (as specified) as appropriately reflects the effects that would reasonably be anticipated from earthworks in those zones.	49/32/2	
<i>John Edmonds and Associates Ltd</i>	Other	Policies	Restructure the objectives and policies so that many of them apply only to urban or rural zones (as specified) as appropriately reflects the effects that would reasonably be anticipated from earthworks in those zones.	49/32/3	
<i>John Edmonds and Associates Ltd</i>	Other	Policies	Either delete policy 1.2 or, if it is to be retained, make it clear that it applies to earthworks rather construction.  Revise policies 1.3 and 3.1 to remove reference to engineering standards.  Amend policies 6.2, 6.3 and 6.4 to make it clear notification would only be anticipated where more than minor adverse effects on those sites and features are anticipated. Amend Policy 7.1 to make it clearer and more easily understood and explain what environmental effects are to be managed. refine Policy 2.7 and use the bullet points (or similar) as matters of discretion for the consideration of proposals for cleanfill facilities.	49/32/4	49/31/23 HNZ - O
<i>John Edmonds and Associates Ltd</i>	Other	General	Review numbering, formatting and heading to aid interpretation and to ensure consistency with similar chapters in the District Plan, with particular attention to ensuring that it is clear what are rules, notes and cross references.	49/32/5	
<i>John Edmonds and Associates Ltd</i>	Other	Rules - Levels of Activities	Review the District Plan to identify all rules which already address earthworks and exempt these activities from having to be subject to further earthworks consents.	49/32/6	
<i>John Edmonds and Associates Ltd</i>	Other	Rules - Levels of Activities	Consider amending the activity status of cleanfill facilities, bulk earthworks and earthworks in the Jacks Point Zone (Rule 22.3.2.4) and subdivisions involving 'bulk earthworks' (Proposed 15.xxx) to controlled or restricted discretionary status.	49/32/7	
<i>John Edmonds and Associates Ltd</i>	Other	Site standards	Review the need to control the volume of earthworks and, if appropriate, delete rule 22.3.3.1(a), and other provisions relating to the control of the volume of earthworks.	49/32/8	49/31/8 HNZ - O

Name	Position	Plan Provision	Decision Requested	Submission Number	Further Submissions
<i>John Edmonds and Associates Ltd</i>	Other	Site standards	Consider whether there should be exemptions to the applicability of Rule 22.3.3 ii (b) (i) and (ii) if the matter is otherwise dealt with via other regulatory processes such as building consent.  Consider removing or reducing restrictions on earthworks near boundaries such as under Rule 22.3.3 ii (b) (iii)	49/32/9	
<i>John Edmonds and Associates Ltd</i>	Other	Non-notification	Consider making applications for earthworks near a boundary an activity that cannot be notified in accordance with Rule 22.3.2.6.	49/32/10	
<i>John Edmonds and Associates Ltd</i>	Other	Rules - Levels of Activities	Consider reducing the activity status of those earthworks consents proposed to be restricted discretionary to controlled activity status.	49/32/11	
<i>John Edmonds and Associates Ltd</i>	Other	Site standards	Either delete Table 22.1 and associated controls on the volume of earthworks or amend the table to make it unambiguous what areas are covered by the various tiers.	49/32/12	49/31/9 HNZ - O
<i>John Edmonds and Associates Ltd</i>	Other	Rules - Levels of Activities	Remove or refine the wording with respect to Environmental Protection Measures when listed as matters of control of discretion.	49/32/13	49/46/39 QAC – S/P
<i>John Edmonds and Associates Ltd</i>	Other	General	Ensure that Plan Change 49 is compliant with Part 3 of Schedule 1 of the RMA (with respect to incorporating documents by reference).	49/32/14	
<i>John Edmonds and Associates Ltd</i>	Other	Site Standards	Amend those rules referring to Cultural Heritage and Archaeological Sites (Rule 22.3.3 (vi)) to make those sites to which they apply easily identifiable through reading the District Plan;  and  Either amend Rules 22.3.3 (iv) - Cultural Heritage and Archaeological Sites (Rule 22.3.3 (vi)) to make those sites to which they apply easily identifiable through reading the District Plan; and Either amend Rules 22.3.3 9iv) - Cultural heritage and Archaeological Sites and 22.3.3 (iv) - Environmental Protection Measures to ensure they are measurable and easily assessed by users of the Plan; or delete these rules and make them assessment matters or add them to non-statutory guidelines on earthworks.	49/32/15	49/46/40 QAC – S/P
<i>John Edmonds and Associates Ltd</i>	Other	Assessment matters	Add introductory text to the assessment matters to aide in the appropriate interpretation and application of those matters.  Amend assessment matter 22.4.i(a) to remove reference to whether earthworks are necessary and clarify that it does not apply to urban areas. Amend assessment matter 22.4.i (b) to make it clear this does not apply to urban areas. Amend assessment matter 22.4.ix (a) to elaborate on what matters with respect to the source and type of clean fill material may have a bearing on the outcome of a resource consent.	49/32/16	

Name	Position	Plan Provision	Decision Requested	Submission Number	Further Submissions
<i>John Edmonds and Associates Ltd</i>	Oppose	Definitions	Delete the definition of clean fill and associated provisions.  Delete proposed amendments to those definitions that do not relate exclusively to earthworks or which differ from or reiterate the wording of the Resource Management Act.	49/32/17	
<i>John Edmonds and Associates Ltd</i>	Other	General	Make such alternative, additional or consequential amendments to the PC49 Plan Provisions as may be considered necessary or appropriate in order to address the issues raised in this submission.	49/32/18	
<i>Kāi Tahu ki Otago Ltd.</i>	Partly Support	Purpose	Amend Section 22.1 as follows in order to acknowledge effects on heritage landscapes:  "Earthworks have the potential to alter landforms, landscapes, and natural features, and to have effects on heritage landscapes, to such an extent that the identity, amenity values and character of an area can be changed permanently."	49/33/1	49/31/25 HNZ - S
<i>Kāi Tahu ki Otago Ltd.</i>	Support	Objectives	Support (retain) Objective 6.	49/33/2	
<i>Kāi Tahu ki Otago Ltd.</i>	Support	Policies	Support (retain) Policies 6.1 - 6.7	49/33/3	
<i>Kāi Tahu ki Otago Ltd.</i>	Partly Support	General Provisions / Cross Referencing	Add a reference to the Tangata Whenua Chapter to this section.	49/33/4	
<i>Kāi Tahu ki Otago Ltd.</i>	Support	Rules - Levels of activities	Support (retain) Rule 22.3.2.3 Restricted Discretionary Activities and the fact council has reserved discretion over the effects of earthworks activities on cultural and archaeological sites.	49/33/5	
<i>Kāi Tahu ki Otago Ltd.</i>	Partly Support	Site Standards	Amend Rule 22.3.3 (vi)(b) Site Standards - Cultural Heritage and Archaeological Sites as follows (in order to ensure consistency with the wording of Section 206 of the Ngāi Tahu Claims Settlement Act 1998): "(b) Earthworks shall not affect Ngai Tahu's cultural, spiritual, historic and traditional association with land adjacent to or within a Statutory Acknowledgement Area." Add a further site standard to Rule 22.3.3 9vi) Site Standards - Cultural Heritage and Archaeological Sites (in order to protect their heritage landscapes): "(d) Earthworks shall not modify, damage or destroy heritage landscapes."	49/33/6	
<i>Kāi Tahu ki Otago Ltd.</i>	Partly Support	Assessment matters	Amend Section 22.4 vii (b) as follows: "(b) The extent to which the activity affects Ngai Tahu's cultural, spiritual, historic, and traditional association with the Statutory Acknowledgment Area."	49/33/7	

Name	Position	Plan Provision	Decision Requested	Submission Number	Further Submissions
<i>Kennedy, Patrick</i>	Other	General	Where excavation and retaining occurs and leaves a narrow sliver of land (e.g. 10mm) between the sheet piling and the (non excavating) neighbour's property boundary, ownership of that sliver of land on the non-excavating neighbours side of the support structure should be required to be vested in that non-excavating neighbour. Otherwise it is likely that the neighbour could be held to ransom in relation to his own developments on the support issue by the owners of the excavated property. Secondly, the owners of any property where there us a support structure for a neighbouring property should be liable for its removal should it be no longer required and should not be able to demand that the neighbouring property in any way continue to provide support for it.	49/34/1	
<i>Kunath, Mark</i>	Other	Definitions	That the definition of Earthworks be amended to exclude the planting of all trees.	49/35/1	
<i>Kunath, Mark</i>	Other	Non-notification	That all applications for new cleanfill facilities are publically notified because of the huge impact that the truck movements have on adjoining properties.	49/35/2	
<i>Kunath, Mark</i>	Other	Rules - Levels of Activities	That the full cost of additional maintenance and renewals brought forward for the road asset, beyond current heavy vehicle numbers, be paid for by the holders of the cleanfill facility resource consent through a condition on their consent or a targeted transport rate on the cleanfill facility land.	49/35/3	
<i>Lake Wakatipu Station Limited</i>	Oppose	General	<p>That Council withdraws PC49 and undertakes consultation to determine how best to achieve the purpose of the Act.</p> <p>That the re-notified provisions achieve the aims of the Plan Change as expressed in the public notice and Section 32 report; that is, to make earthworks more permissive, more streamlined and less complex. or Should the Council continue with PC49 as notified, that the provisions are amended to achieve the goal of streamlining the provisions. This could be achieved by: Reducing the number and complexity of objectives and policies. Remove repetition, and remove those policy provisions that are not necessary. Reducing the number of assessment matters. Including earthworks provisions within each zone, as is currently the case.</p> <p>General aspects of the Plan Change not supported are that it: Does not accord with, or assist the territorial authority to carry out its functions to achieve, the purpose of the Resource management Act 1991 (the "Act"); Does not promote sustainable management; Does not meet section 32 of the Act; Does not represent integrated management or sound resource management practice; is not the most appropriate method for achieving the objectives of the District Plan having regard to its efficiency and effectiveness, and taking into account the costs and benefits.</p>	49/36/1	

Name	Position	Plan Provision	Decision Requested	Submission Number	Further Submissions
<i>Lake Wakatipu Station Limited</i>	Oppose	Objectives	That, should the Council decide not to withdraw PC49, the objectives are amended to recognise that it is not necessary to 'avoid' effects, but to recognise that adverse effects can be 'remedied' or 'mitigated'.  That consideration is given to how the proposed objectives and policies relate to one another.	49/36/2	
<i>Lake Wakatipu Station Limited</i>	Oppose	Policies	That, should the Council decide not to withdraw PC49, the policies are amended to recognise that it is not necessary to 'avoid' effects, but to recognise that adverse effects can be 'remedied' or 'mitigated'.  That consideration is given to how the proposed objectives and policies relate to one another.	49/36/3	
<i>Lake Wakatipu Station Limited</i>	Oppose	Definitions	That, should the Council decide not to withdraw PC49, the definition of earthworks is not changed as it relates to the exemption of the planting of trees, landscaping etc.	49/36/4	
<i>Lake Wakatipu Station Limited</i>	Partly Support	Rules - Levels of activities	The exemption for maintenance of tracks is supported, but this should be taken further and extended to include the formation of farm tracks.	49/36/5	49/31/17 HNZ - O
<i>Lake Wakatipu Station Limited</i>	Other	Rules - Levels of Activities	Should the Council continue with PC49 as notified, the rules for maintenance and creation of trails should be made more permissive, recognising the importance of trail development and maintenance for this District.	49/36/6	49/31/18 HNZ - O
<i>Lake Wakatipu Station Limited</i>	Other	Site standards	That the level of earthworks allowed on a site be adjusted on a sliding scale to recognise that larger sites can absorb a larger volume of earthworks.	49/36/7	49/46/38 QAC - S
<i>Lemaire-Sicre, Roland and Keri</i>	Oppose	Site Standards	That the present Rural General rule of 1,000m <sup>3</sup> be retained or that a Resource Consent be required/ notified. NB: The rule for most of the Rural General Zone is changing from requiring a controlled consent at 300m <sup>3</sup> to allowing 1,000m <sup>3</sup> .	49/37/1	
<i>McArthur, Ian</i>	Other	Site Standard	Amend Site Standard 22.3.3(ii) by increasing the maximum height from 2.4 m to 2.7 m to allow for foundations NZS4229.	49/38/1	
<i>McArthur, Ian</i>	Support	Site standards	Support (retain) increasing the cut and fill allowance onsite from 100m <sup>3</sup> to 300m <sup>3</sup> in the low density residential areas (Tier 3), as this allows for a basement to be dug into a slope.	49/38/2	
<i>McAuliffe Stevens Registered Architects</i>	Other	Site standards	If Rule 22.3.3(ii)(a)(ii) is applicable then the top of a cut batter or bottom of a fill batter should be allowed to adjoin a site boundary with 300mm offset dimension. It is noted that proposed Rule 22.3.3(99)(b)(iii) is too restrictive, particularly when read together with proposed Rule 22.3.3(ii)(a)(ii).	49/39/1	
<i>McLeod, Bruce</i>	Other	Rules - levels of Activities	In rule 22.3.2.1(b)(i), provide clarification of the 10% tag and whether it applies to all subclauses a) - e). 10% is too limiting for a farm track re-surfacing	49/40/1	
<i>McLeod, Bruce</i>	Other	Rules - levels of Activities	Regarding Rule 22.3.2.2(d)(iii), if Council deem the cumulative effect of a proposed track is not appropriate, how can it be declined if it is controlled.	49/40/2	

Name	Position	Plan Provision	Decision Requested	Submission Number	Further Submissions
<i>McLeod, Bruce</i>	Other	Site standards	Regarding Rule 22.3.3(ii)(a), the permitted cut heights should be consistent at 2.4 m across all zones. The submitter queries why cuts are restricted to 1 m in the rural area when fill can be 2 m and cuts elsewhere can be 2.4 m.	49/40/3	
<i>McLeod, Bruce</i>	Other	Site standards	Regarding Rule 22.3.3 - Table 22.1: - it is more logical to set the townships limits at the LDR level (i.e. Tier 3) as they are no more sensitive. - Earthworks on ONL, ONF, etc should be Tier 1 (citing that Tier 2 as pointless) - There are too many tiers. LDR, HDR< Industrial, and business zones should all be combined at 400m3. Where is the open space zone?	49/40/4	
<i>Mee, Mike</i>	Oppose	General	That Council withdraws PC49 and undertakes consultation to determine how best to achieve the purpose of the Act.  That the re-notified provisions achieve the aims of the Plan Change as expressed in the public notice and Section 32 report; that is, to make earthworks more permissive, more streamlined and less complex. or Should the Council continue with PC49 as notified, that the provisions are amended to achieve the goal of streamlining the provisions. This could be achieved by: Reducing the number and complexity of objectives and policies. Remove repetition, and remove those policy provisions that are not necessary. Reducing the number of assessment matters. Including earthworks provisions within each zone, as is currently the case. General aspects of the Plan Change not supported are that it: Does not accord with, or assist the territorial authority to carry out its functions to achieve, the purpose of the Resource Management Act 1991 (the "Act"); Does not promote sustainable management; Does not meet section 32 of the Act; Does not represent integrated management or sound resource management practice; is not the most appropriate method for achieving the objectives of the District Plan having regard to its efficiency and effectiveness, and taking into account the costs and benefits.	49/41/1	
<i>Mee, Mike</i>	Oppose	Objectives	That, should the Council decide not to withdraw PC49, the objectives are amended to recognise that it is not necessary to 'avoid' effects, but to recognise that adverse effects can be 'remedied' or 'mitigated'.  That consideration is given to how the proposed objectives and policies relate to one another.	49/41/2	
<i>Mee, Mike</i>	Oppose	Policies	That, should the Council decide not to withdraw PC49, the policies are amended to recognise that it is not necessary to 'avoid' effects, but to recognise that adverse effects can be 'remedied' or 'mitigated'.  That consideration is given to how the proposed objectives and policies relate to one another.	49/41/3	

Name	Position	Plan Provision	Decision Requested	Submission Number	Further Submissions
<i>Mee, Mike</i>	Oppose	Definitions	That, should the Council decide not to withdraw PC49, the definition of earthworks is not changed as it relates to the exemption of the planting of trees, landscaping etc.	49/41/4	
<i>Mee, Mike</i>	Partly Support	Rules - Levels of Activities	The exemption for maintenance of tracks is supported, but this should be taken further and extended to include the formation of farm tracks.	49/41/5	49/31/19 HNZ – O
<i>Mee, Mike</i>	Other	Rules - Levels of Activities	Should the Council continue with PC49 as notified, the rules for maintenance and creation of trails should be made more permissive, recognising the importance of trail development and maintenance for this District.	49/41/6	49/31/20 HNZ - O
<i>Mee, Mike</i>	Other	Site Standards	That the level of earthworks allowed on a site be adjusted on a sliding scale to recognise that larger sites can absorb a larger volume of earthworks.	49/41/7	
<i>Millbrook Country Club Ltd.</i>	Oppose	General	Amend PC49 such that it is not applicable to the Millbrook section of the Resort Zone	49/42/1	
<i>Millbrook Country Club Ltd.</i>	Oppose	Rules - Levels of activities	In the event that the primary relief is declined: - Delete provisions relating to bulk earthworks in both the proposed Earthworks section and Subdivision.  - Create specific rules enabling large scale earthworks in relation to golf course maintenance and development for the Millbrook section of the Resort Zone.	49/42/2	
<i>Millbrook Country Club Ltd.</i>	Other	Objectives	In the event that the primary relief is declined, revise the objectives to recognise the benefits of earthworks and ensure that in most parts of the District, including visual amenity landscapes, primacy is not given to the protection of existing landforms at the expense of modifications associated with appropriate use and development.	49/42/3	
<i>Millbrook Country Club Ltd.</i>	Other	Policies	In the event that the primary relief is declined, revise the policies to recognise the benefits of earthworks and ensure that in most parts of the District, including visual amenity landscapes, primacy is not given to the protection of existing landforms at the expense of modifications associated with appropriate use and development.	49/42/4	
<i>Millbrook Country Club Ltd.</i>	Oppose	Site standards	In the event that the primary relief is declined: Delete the proposed maximum volume of earthworks as it applies to the Millbrook part of the Resort Zone.	49/42/5	
<i>Millbrook Country Club Ltd.</i>	Other	General	Make such alternative, additional or consequential amendments to the PC49 Plan Provisions as may be considered necessary or appropriate in order to address the issues raised in this submission.	49/42/6	
<i>Mount Farm Ventures Ltd</i>	Partly Support	Site Standards	An 'area threshold' not be introduced into the Bendemeer Special Zone; and  Rule 22.3.3(i) (Table 22.1) be amended such that the Bendemeer Special Zone be supported by an earthworks threshold of no less than 1,000m <sup>3</sup> .	49/43/1	

Name	Position	Plan Provision	Decision Requested	Submission Number	Further Submissions
<i>Mount Farm Ventures Ltd</i>	Partly Support	Non-notification	The non-notification clause ( 22.3.2.6(a)) be amended by adding the following clause (v) which would have the effect of enabling such earthworks without notification or limited notification:  "(v) Any earthworks undertaken within and confined to an approved residential building platform located within the Bendemeer Special Zone".	49/43/2	49/46/26 QAC – O/P
<i>Otago Regional Council</i>	Other	Purpose	Re-phrase Paragraph 6 as follows:  "The water plan identifies four main aquifers, Hawea Basin, Wanaka Basin, Cardrona alluvial ribbon and Wakatipu Basin but other lesser aquifers also need to be considered" as other aquifers (other than the 4 that are named) may be relevant.	49/44/1	
<i>Otago Regional Council</i>	Other	Purpose	Update the reference to the "National Policy Statement Freshwater Quality (2011)" to read "National Policy Statement Freshwater Management (2014)".	49/44/2	
<i>Otago Regional Council</i>	Other	Objectives	The ORC has some concern around the defensibility of the objectives.	49/44/3	
<i>Otago Regional Council</i>	Other	Policies	The ORC has some concern around the defensibility of the policies, including the following specific comments:  - Policy 5.2 discusses the location of earthworks in close proximity to water bodies. The definition of earthworks excludes cultivation, mining and cleanfills. It is equally relevant that these activities avoid close proximity to water bodies and the effects of any such proximity are addressed. Policy 5.3 should ensure activities also avoid penetrating aquifers. The protection of the natural character of wetlands, lakes, and rivers and their margins should be identified in the policy framework. As part of the review of the Regional Policy Statement, ORC is considering managing natural character on the margins of wetlands, rivers and lakes. This may include earthworks and proximity of these waterbodies.	49/44/4	
<i>Otago Regional Council</i>	Other	General provisions/ cross referencing	Clarify that earthworks relating to areas identified as containing indigenous biodiversity will be covered by other rules and so are not covered by this plan change.	49/44/5	
<i>Otago Regional Council</i>	Other	General provisions	Replace references to "The Historic Places Act 1993" with the "Heritage New Zealand Pouhere Taonga Act 2014".	49/44/6	
<i>Otago Regional Council</i>	Other	Rules - Levels of Activities	The effects of earthworks on the natural character of wetlands, lakes and rivers and their margins should be a matter over which Council reserves control for controlled activities.  With regard to Open Space zones (Rule 22.3.2.2 (d)), if there is any intention to increase application of this zone it may be appropriate to include other matters over which Council has reserved control, in particular the effects on water bodies and natural character.	49/44/7	

Name	Position	Plan Provision	Decision Requested	Submission Number	Further Submissions
<i>Otago Regional Council</i>	Other	Assessment matters	Add "the effects of earthworks on the natural character of wetlands, lakes and rivers and their margins" as an assessment matter for discretionary activities to enable these effects to be assessed and appropriately addressed.	49/44/8	
<i>Otago Regional Council</i>	Other	Site Standards	With regard to Water Bodies (22.3.3.v), there is no time limit in relation to how frequently 20m <sup>3</sup> of earthworks can be undertaken within 7m of a water body. This contrasts with rule 22.3.3.i which provides both a volume and time period. As this is a permitted standard and there is no time limit there is a real risk this will be interpreted as the right to undertake this volume as many times as desired as a permitted activity.	49/44/9	
	Other	Site Standards	With regard to Water Bodies (22.3.3.v), there is the opportunity to standardise terminology between the ORC's water plan and the district plan. It is recommended that 'penetration' should replace 'Exposure' (site standard 22.3.3 v (c)(i)) and 'or contaminate' be added in reference to protecting any ground water aquifer.	49/44/10	
<i>Paterson Pitts Partners (Wanaka) Ltd</i>	Support	General	Approve the Plan Change	49/45/1	
<i>Queenstown Airport Corporation</i>	Other	Purpose. 22.1	Amend the introductory paragraph to correctly reference to the Freshwater NPS.	49/46/1	
<i>Queenstown Airport Corporation</i>	Partly Support	Objectives (22.2)	To amend Objective 1 to read that earthworks be enabled..."provided that they are undertaken in a manner that avoids, remedies, or mitigates the adverse effects' rather than placing primacy on the need to avoid such effects, by stating that they be undertaken in a manner that avoids effects.	49/46/2	
<i>Queenstown Airport Corporation</i>	Partly Support	Policies (22.2)	To amend Policy 1.2 to read "to use... measures to avoid, remedy, or mitigate the adverse effects" in recognition that remediation or mitigation are also appropriate measures (and to be consistent with amendments sought to Objective 1) To include "dust plumes above the site" within Policy 1.2. To add a new policy (1.6) to recognise circumstances where the regional or national benefits of earthworks related to regionally significant infrastructure outweigh the adverse effects.	49/46/3	
<i>Queenstown Airport Corporation</i>	Other	General Provisions/ cross referencing	Rule 15.2.20 (referred to in Rule 22.3.1(ii) does not exist in the District Plan and so the reference needs amending and the opportunity provided to reconsider this rule.	49/46/4	
<i>Queenstown Airport Corporation</i>	Support	Rules - Levels of activities (22.3.2.2 - 4)	Retain the cascading rule structure proposed	49/46/5	
<i>Queenstown Airport Corporation</i>	Oppose	Non-notification (22.3.2.6)	That the Queenstown Airport Corporation be notified or its approval sought for all earthworks applications in the vicinity of Queenstown and Wanaka OLS designations.	49/46/6	

Name	Position	Plan Provision	Decision Requested	Submission Number	Further Submissions
<i>Queenstown Airport Corporation</i>	Oppose	Site Standards (22.3.3(i))(a). Table 22.1)	That the mixed Use Airport Zone be identified as a Tier 5 activity for earthworks within this zone	49/46/7	
<i>Queenstown Airport Corporation</i>	Support	Site standards (22.3.3)	The site standard 22.3.3. be retained with 22.3,3(iv)(b) amended slightly to read "..beyond the boundary and above the site".	49/46/8	
<i>Queenstown Airport Corporation</i>	Partly Support	Assessment Matters (22.4)	That additional assessment matters be included under sub-heading 22.4(i) or under a new category, which recognises and provides for those circumstances where there are significant social and/ or economic benefits in providing for earthworks. Retain assessment matter 22.4 (ii) regarding environmental protection measures as drafted. retain assessment matter 22.4 (vii) regarding bulk earthwork with a minor amendment to ensure that the measures outlined in 22.4 (vii) (e) are implemented to manage the effects of earthworks on other sensitive receivers such as overhead aircraft.	49/46/9	
<i>Queenstown Airport Corporation</i>	Other	General	Any other/ further relief in order to take account of the matters expressed in this submission	49/46/10	
<i>Queenstown Central Ltd.</i>	Partly Support	General	In general conditionally supports the following aspects: <ul style="list-style-type: none"> <li>- The streamlining of the controls and taking a more consistent approach across the district.</li> <li>- Providing a robust framework in terms of objectives and policies associated with earthworks.</li> <li>- The recognition that earthworks are required to facilitate development and that the provisions need to be enabling. Removing the area (m2) control and just having a volume (m3) control.</li> </ul>	49/47/1	
<i>Queenstown Central Ltd.</i>	Other	Objectives	Amend Objectives to require adverse effects to be avoided or mitigated rather than just avoided.	49/47/2	
<i>Queenstown Central Ltd.</i>	Other	Policies	Amend policies to require adverse effects to be avoided or mitigated rather than just avoided.	49/47/3	
<i>Queenstown Central Ltd.</i>	Oppose	Non-notification	All Restricted Discretionary earthworks applications should be able to be dealt with on a non-notified basis without the need for written approvals.	49/47/4	49/46/28 QAC – O/P
<i>Queenstown Central Ltd.</i>	Oppose	Rules - Levels of Activities	In respect of bulk earthworks: there is no need for these to be fully discretionary (or any other earthworks consent for that matter). Restricted Discretionary status should be retained for this activity and Council's discretion confined to a range of matters relevant to best practice for earthworks.	49/47/5	
<i>Queenstown Central Ltd.</i>	Other	General	Make such alternative, additional or consequential amendments to the PC49 Plan Provisions as may be considered necessary or appropriate in order to address the issues raised in this submission.	49/47/6	
<i>Queenstown Trails Trust</i>	Other	Objectives	Amend objective 2 by replacing the word 'adverse' with the word 'inappropriate' to better reflect section 6b of the RMA.	49/48/1	

Name	Position	Plan Provision	Decision Requested	Submission Number	Further Submissions
<i>Queenstown Trails Trust</i>	Other	Policies	Amend policies 2.1 and 2.2 to include the words 'and mitigate' after the word 'avoid' to more accurately reflect the purpose of the RMA  Amend policy 3.3 to include the words 'remedy or mitigate' after the word 'avoid' and delete the words 'and tracking'.	49/48/2	
<i>Queenstown Trails Trust</i>	Partly Support	Rules - levels of activities	The permitted activity status of earthworks associated with the maintenance of public recreational tracks under 22.3.2.1(b) is supported but should be expanded to include the construction of all new public recreational trails on Queenstown Lakes District Council or Crown Land or on an easement registered over private land in favour of the Queenstown Lakes District Council, the Crown, or the QEII Trust or any of its entities. As currently drafted, the rule does not go far enough to achieve policy 4.3.	49/48/3	49/31/21 HNZ - O
<i>RCL Queenstown Pty Ltd</i>	Oppose	Rules - Levels of Activities	Delete provisions relating to bulk earthworks in both the proposed Earthworks section and Subdivision.	49/49/1	
<i>RCL Queenstown Pty Ltd</i>	Other	Objectives	Revise the proposed objectives to more explicitly recognise the benefits of earthworks and ensure that in most parts of the District, including urban areas, primacy is not given to the protection of existing landforms at the expense of modifications associated with appropriate use and development. And Amend objectives to recognise that mitigation and remediation of effects arising from earthworks will often be an appropriate course of action.	49/49/2	
<i>RCL Queenstown Pty Ltd</i>	Other	Policies	Revise the proposed policies to more explicitly recognise the benefits of earthworks and ensure that in most parts of the District, including urban areas, primacy is not given to the protection of existing landforms at the expense of modifications associated with appropriate use and development. And Amend objectives to recognise that mitigation and remediation of effects arising from earthworks will often be an appropriate course of action.	49/49/3	
<i>RCL Queenstown Pty Ltd</i>	Other	Policies	Amend Policy 3.2 to ensure that there is no presumption against de-watering but rather that potential adverse effects resulting from this practice are avoided, remedied or mitigated.	49/49/4	
<i>RCL Queenstown Pty Ltd</i>	Other	Site Standards	That the following rules be either deleted, made more enabling or a justification for the proposed restriction on earthworks adequately provided: - Rule 22.3.3.1(a) - control on the volume of earthworks. - Rule 22.3.3 ii (b) (i) and (ii) - Controls on cut and fill. Rule 22.3.3 ii (b) (iii) Rules enabling notification of applications for restricted discretionary earthworks activities.	49/49/5	
<i>RCL Queenstown Pty Ltd</i>	Other	Non-notification	That the following rule be either deleted, made more enabling or a justification for the proposed restriction on earthworks adequately provided: - Rule 22.3.2.6 - Rules enabling notification of applications for restricted discretionary earthworks activities.	49/49/6	

Name	Position	Plan Provision	Decision Requested	Submission Number	Further Submissions
<i>RCL Queenstown Pty Ltd</i>	Other	Rules - Levels of Activities	That the following rule be either deleted, made more enabling or a justification for the proposed restriction on earthworks adequately provided: - The widespread use of restricted discretionary or discretionary status for various earthworks consents, as opposed to controlled activity status. That rule 22.3.4 (c) (Discretionary Activity - Earthworks in the Jacks Point Zone) be deleted; and That the exemption in Rule 22.3.2.1 9iii) which permits earthworks otherwise approved via resource consents for buildings in the Remarkables Park Zone under 12.11.3.2 9i) be extended to buildings approved under rule 12.2.3.2 9vii) in the Jacks Point Zone.	49/49/7	
<i>RCL Queenstown Pty Ltd</i>	Other	General	Such alternative, additional or consequential amendments to the PC49 Plan Provisions as may be considered necessary or appropriate in order to address the issues raised in this submission.	49/49/8	
<i>Remarkables Park Ltd.</i>	Oppose	General	That Council withdraws PC49 and undertakes consultation to determine how best to achieve the purpose of the Act.  That the Council recognises that the consultation undertaken for PC49 is inadequate. The proposal to change the earthworks provisions as they relate to the RPZ is opposed, and the changes proposed, with the consequent need for RPL to submit, could have been avoided had consultation been undertaken prior to notifying PC49 in its current form.	49/50/1	
<i>Remarkables Park Ltd.</i>	Other	General	That, should the Council continue with PC49 as notified, the earthworks provisions as they relate to the RPZ are not changed as a result of PC49. Retain existing provisions within the RPZ.	49/50/2	
<i>Remarkables Park Ltd.</i>	Other	Objectives	That consideration is needed as to how the proposed objectives and policies relate to one another.  Reduce the number and complexity of the objectives and remove repetition.	49/50/3	
<i>Remarkables Park Ltd.</i>	Other	Policies	That consideration is needed as to how the proposed objectives and policies relate to one another.  That, should the Council continue with PC49 as notified, the policy provisions as they relate to RPZ are not altered.  Reduce the number and complexity of policies; remove repetition; and remove those policy provisions that are not necessary.	49/50/4	
<i>Remarkables Park Ltd.</i>	Other	Rules - Levels of Activities	That further consideration is given to the effectiveness of the new discretionary rule for bulk earthworks.	49/50/5	
<i>Remarkables Park Ltd.</i>	Other	General provisions/ cross referencing	That, should the Council continue with PC49 as notified, the earthworks provisions as they relate to subdivision within the RPZ remain unchanged.	49/50/6	

Name	Position	Plan Provision	Decision Requested	Submission Number	Further Submissions
<i>Remarkables Park Ltd.</i>	Other	Definitions	That the definition of earthwork is not changed as it relates to the exemption of the planting of trees.	49/50/7	
<i>Remarkables Park Ltd.</i>	Other	Rules - Levels of Activities	That, should the Council continue with PC49 as notified, the rules for maintenance and creation of trails are more permissive, recognising the importance of trail development and maintenance for this District.	49/50/8	49/31/22 HNZ - O
<i>Shotover Country Limited</i>	Other	Rules - Levels of activities	Amend Rule 22.3.2.1(b) by adding the following subclause:  (iv) In the Shotover Country Zone, earthworks associated with a subdivision consent and earthworks associated with construction of the Area 1f, fill works undertaken in accordance with Rule 12.25 .9.2 xvii, and earthworks associated with the construction or installation of utilities.	49/51/1	
<i>Shotover Park Ltd.</i>	Oppose	General	That Council withdraws PC49 and undertakes consultation to determine how best to achieve the purpose of the Act.  Reconsider including earthworks provisions within each zone.	49/52/1	
<i>Shotover Park Ltd.</i>	Partly Support	Site standards	That, should the Council continue with PC49 as notified, clarification is provided as to what zones are included in each Tier listed at Table 22.1.  If it is correct that Activity Areas E1 and E2 of Frankton Flats, of which SPL land is within, is within Tier 5, then the increased volume of earthworks allowed per site is supported.	49/52/2	
<i>Shotover Park Ltd.</i>	Other	Objectives	That, should the Council continue with PC49 as notified:  - The objectives are amended to recognise that it is not necessary to avoid effects, but to recognise that adverse effects can be remedied or mitigated.  - Reduce the number and complexity of objectives and remove repetition.	49/52/3	
<i>Shotover Park Ltd.</i>	Other	Policies	That, should the Council continue with PC49 as notified:  - The policies are amended to recognise that it is not necessary to avoid effects, but to recognise that adverse effects can be remedied or mitigated.  - Reduce the number and complexity of policies; remove repetition; and remove those policy provisions that are not necessary.	49/52/4	
<i>Shotover Park Ltd.</i>	Support	General provisions/ cross referencing	The clarification that earthworks undertaken as part of a subdivision are exempt from land use requirements for earthworks is supported.	49/52/5	
<i>Shotover Park Ltd.</i>	Other	Rules - Levels of activities	That further consideration is given to the effectiveness of the new discretionary rule for bulk earthworks.	49/52/6	
<i>Shotover Park Ltd.</i>	Other	Definitions	That, should the Council continue with PC49 as notified, the definition of earthworks is not changed as it relates to the exemption of the planting of trees.	49/52/7	

Name	Position	Plan Provision	Decision Requested	Submission Number	Further Submissions
<i>Shotover Park Ltd.</i>	Other	Assessment matters	Reduce the number of assessment matters.	49/52/8	
<i>Southern Hemisphere Proving Grounds</i>	Oppose	Objectives	Add the following words to Objective 4: "... And the development and operation of ski fields"	49/53/1	
<i>Southern Hemisphere Proving Grounds</i>	Oppose	Rules- Levels of activities	Modify the permitted activity rule 22.3.2.1(c)(ii) to exempt all earthworks and bulk earthworks undertaken in ski area subzones where those works also trigger a requirement for Resource Consent under the clearance of indigenous vegetation under either Rule 5.3.5.1 (x) or 5.3.5.1 (xii) from the following rules and standards that apply to earthworks: Rule 22.3.2.4 (b) Bulk earthworks. Rule 22.3.3 (i) (a) - (c) volumes. Rule 22.3.3 (ii) (a) the height of cut and fill or Modify Rule 22.3.2.4 (b) re bulk earthworks to exempt all earthworks undertaken within a ski area subzone (and amend notification and site standards rules as per the below submission points).	49/53/2	
<i>Southern Hemisphere Proving Grounds</i>	Oppose	General	Modify the Plan Change in any other manner that will give effect to the submissions	49/53/3	
<i>Southern Hemisphere Proving Grounds</i>	Oppose	Non-notification	Modify Rule 22.3.2.6(a)(iii) non notification - to include all earthworks and bulk earthworks undertaken within a ski area subzone	49/53/4	49/46/31 QAC – O/P
<i>Southern Hemisphere Proving Grounds</i>	Oppose	Site standards	Modify site standard 22.3.3(ii)(a) re height of cut and fill and slope to exclude earthworks and bulk earthworks occurring within a ski area subzone.	49/53/5	
<i>Te Anau Developments Ltd.</i>	Other	Objectives	Amend Objectives 1 and 2 to acknowledge that earthworks activities create effects that cannot be avoided and can only be remedied and mitigated.	49/54/1	
<i>Te Anau Developments Ltd.</i>	Other	Objectives	Amend Objective 4 by deleting the reference to Objective 2, applying the objective also to the Rural Visitor Zone, and adding further wording regarding ski area subzones to read follows: "Objective 4 Earthworks in Rural General Zone, Rural Visitor Zone and Ski Area Sub-Zones; to enable earthworks .... and the development and operation of ski areas."	49/54/2	
<i>Te Anau Developments Ltd.</i>	Other	Policies	Amend Policies 4.1 to 4.4 to include the following provision: "To provide for earthworks to create remedial flood defence earthworks to ensure the property and structures can be protected from damage."	49/54/3	
<i>Te Anau Developments Ltd.</i>	Other	Site Standards	Apply the General Rural Zone Earthworks provisions to the Rural Visitor Zone, including: - Applying Objective 4 to the Rural Visitor Zone - Applying the Rural General volumes/ Tier (rule 22,3,3(i)) to the Rural Visitor Zone	49/54/4	
<i>Te Anau Developments Ltd.</i>	Other	General	Retain the current operative Ski Area Sub-Zone earthworks exemptions or modify Plan Change 49 to incorporate the same level of exemptions.	49/54/5	

Name	Position	Plan Provision	Decision Requested	Submission Number	Further Submissions
<i>Te Anau Developments Ltd.</i>	Other	Rules - Levels of Activities	With respect to Rule 22.3.2.1:  Amend sub clause (b)(i)(e) by deleting "...provided that the maintenance work results in less than a 10% increase in exposed surface area of that feature in any 10 year period.", which relates to trails and operational areas within Ski Area Sub Zones. Amend sub clause (b) (i) (e) to include earthwork activities associated in the construction of rock culverts, rock armouring and deepening stream beds to divert the scree, water and rocks away from the structures. Delete Rule 22.3.2.1 (c) (i) relating to the approvals from the Department of Conservation. Amend Rule 22.3.2.1 (c) (ii) by also exempting earthworks within Ski Area Sub-Zones from Rules 22.3.3 9i0, (ii), (iv) and Rule 22.3.2.4 (b) Bulk Earthworks (if not deleted as proposed below). make any other amendments that are required to ensure that all earthworks within a Ski Area Sub-Zone are a permitted activity.	49/54/6	
<i>Te Anau Developments Ltd.</i>	Other	Rules - Levels of Activities	Make flood defence earthworks within 7 metres of a water body; installation of rock culverts and rock armouring permitted activities and exempt from proposed Rule 22.3.3(i) and 22.3.3(ii).	49/54/7	
<i>Te Anau Developments Ltd.</i>	Other	General	Clarify in the rules which activities are Controlled, Restricted Discretionary, Discretionary, and Non-complying across all the zones and how the site standards relate to the activity rules.	49/54/8	
<i>Te Anau Developments Ltd.</i>	Oppose	Rules - Levels of Activities	Delete Rule 22.3.2.4(b) Bulk Earthworks and all other plan provisions relating to that consent category.	49/54/9	
<i>Te Anau Developments Ltd.</i>	Other	Site Standards	The intent of proposed rule 22.3.3(i) Volume of Earthworks needs to be clearer.  Amend Rule 22.3.3(i) Volume of Earthworks to allow a higher tier of Earthworks in Rural Visitor Zones.	49/54/10	
<i>Te Anau Developments Ltd.</i>	Other	Non-notification	Include Rural Visitor Zones in proposed rule 22.3.2.6 (a) regarding non notification	49/54/11	49/46/33 QAC – O/P
<i>Te Anau Developments Ltd.</i>	Other	Site standards	Amend proposed rule 22.3.3 ii (a) (i) & (ii) Height of cut and fill and slope to create a more practical provision for the steep slopes on farms and ski fields.  Amend proposed rule 22.3.3 iv (c) to recognise that in some areas of Ski Area Sub-Zones it is impractical to restore vegetation and re-vegetate exposed ground. Amend proposed rule 22.3.3 v (a) and (b) Water Bodies to take into account the need to maintain, repair and augment water defence structures adjacent waterways and make these activities permitted activities.	49/54/12	
<i>Te Anau Developments Ltd.</i>	Other	Assessment matters	The Assessment Matters for Ski Area Sub Zones need to allow for the reality of modern ski field where earthworks may not be "sympathetic to natural topography"; can "create an area that is inconsistent with the character of the surrounding landscape" and that it is not always appropriate to re-vegetate slopes because of ongoing maintenance and safety improvements.	49/54/13	

Name	Position	Plan Provision	Decision Requested	Submission Number	Further Submissions
<i>BP Oil NZ Ltd, Mobil Oil NZ Ltd &amp; Z Energy Ltd (The Oil Companies)</i>	Other	Objectives	Ensure that Objective 1 provides for adverse effects on communities to be remedied or mitigated as well as avoided. This could be achieved by making amendments to Objective 1 by adding the words "remedies or mitigates" as follows:  "To enable earthworks ... in a manner that avoids, remedies or mitigates adverse effects on communities and the natural environment".	49/55/1	
<i>The Oil Companies</i>	Other	Policies	Ensure that Policy 1.2 provides for adverse effects on communities to be managed rather than avoided and to ensure that the purpose of the management techniques to be adopted is clear. This could be achieved by making amendments to Policy 1.2 as follows: "To use environmental protection measures to manage adverse effects of earthworks, including by: Retaining soil and sediment run-off erosion control techniques. Requiring dust control measures to avoid nuisance effects of dust beyond the boundary of the site. Diverting storm water around areas being earth-worked to minimise the generation of sediment and managing earthworks within overland flow paths to ensure that they do not exacerbate flooding. Managing construction noise and vibration effects. limits on the duration of construction, including on the amount of land being disturbed at any one time, taking into account the receiving environment to limit the potential for sediment generation, particularly in sensitive areas. Traffic management and implementation of techniques to avoid the depositing of sediment onto roads, particularly where access is gained through residential areas."	49/55/2	
<i>The Oil Companies</i>	Support	Policies	Retain Policies 1.1, 1.3, and 1.4 without modification	49/55/3	
<i>The Oil Companies</i>	Support	Objectives	Retain Objectives 3 and 6 without modification	49/55/4	
<i>The Oil Companies</i>	Partly Support	Policies	Retain Policies 3.1 and 3.3 without modification; and  Amend Policy 3.2 to remove any reference to dewatering as follows: "3.2 To ensure earthworks do not cause or exacerbate flooding."	49/55/5	
<i>The Oil Companies</i>	Other	Policies	Amend Policy 5.1 as follows: "To avoid, to the extent practicable, sediment run-off into water bodies through the adoption of sediment control techniques"  Retain Policy 5.2 without modification .	49/55/6	
<i>The Oil Companies</i>	Partly Support	Policies	Retain Policies 6.1 and 6.7 without modification.  Delete Policies 6.2 - 6.6.	49/55/7	49/31/24 HNZ- O
<i>The Oil Companies</i>	Support	General provisions/ cross referencing	Retain reference to the National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health Regulations 2011 in Section 22.3.1 (v) without modification.	49/55/8	

Name	Position	Plan Provision	Decision Requested	Submission Number	Further Submissions
<i>The Oil Companies</i>	Support	Rules - Levels of Activities	Continue to exempt Underground Petroleum Storage Systems (UPSS) removals and/or replacements from the general earthworks provisions in the Plan. This could be achieved by retaining without modification the following exemption from the permitted activity standards in Rule 22.3.2.1 9b) (ii).	49/55/9	
<i>Transpower New Zealand Ltd</i>	Support	Rules - Levels of Activities	Retain Rule 22.3.2.3 (a) as notified.	49/56/1	
<i>Transpower New Zealand Ltd</i>	Oppose	Rules - Levels of Activities	Delete Rule 22.3.2.3(c), which relates to the Shotover Country Special Zone	49/56/2	
<i>Transpower New Zealand Ltd</i>	Other	Rules - Levels of Activities	Amend the matters of discretion in Rule 22.3.2.3 (d) to read:  "(d) The matters in respect of which the Council has reserved discretion for earthworks that do not comply with Site Standard 22.3.3. viii (a) relating to the National Grid Electricity Line are: (i) The extent of earthworks required, and use of mobile machinery near the National grid electricity line which may put the line at risk; (ii) Effects on the integrity of the national Grid electricity line; (iii) Volume, area and location of the works, including temporary activities such as stockpiles; (iv) Time of the works; (v) Site remediation; (vi) The use of mobile machinery near the transmission line which may put the line at risk; (vii) Extent of compliance with the New Zealand Electrical Code of Practice for Electrical Safe Distances (NZECP 34: 2001)."	49/56/3	
<i>Transpower New Zealand Ltd</i>	Other	Rules - Levels of Activities	Insert new non-complying Rule 22.3.2.5 (c) as follows: "Cromwell - Frankton A National Grid Electricity Line (c) Any earthworks, cleanfill or mining activity which do not comply with Site Standard 22.3.3 viii (a)(ii) or 22.3.3 viii (a)(iii)."	49/56/4	
<i>Transpower New Zealand Ltd</i>	Oppose	Site standard	Delete Site Standard viii in 22.3.3 and replace with the following new Site Standard: "viii Cromwell - Frankton A National Grid Electricity Line (a) Any Earthworks, Cleanfill or Mining Activity within 12m of a support structure (tower) or within 12m of the centreline of the Cromwell - Frankton A line shall not: (i) Exceed a depth of 300mm within 12m of any National Grid support structure (tower) foundation. (ii) Compromise the stability of a national Grid support structure; and (iii) Result in a reduction in the ground to conductor clearance distances below what is required by Table 4 of the New Zealand Electrical Code of Practice for Electrical safe Distances (NZECP 34: 2001).	49/56/5	
<i>Transpower New Zealand Ltd</i>	Other	General	Retain and amend all references to the New Zealand Code of Practice for Electrical Safe Distances (NZECP 34: 2001) as follows: - New Zealand Electrical Code of Practice for Electrical Safe Distances (NZECP 34: 2001).	49/56/6	
<i>Transpower New Zealand Ltd</i>	Other	General	Show the existing Cromwell - Frankton A National Grid Electricity Line on the District Plan Maps.	49/56/7	

Name	Position	Plan Provision	Decision Requested	Submission Number	Further Submissions
<i>Transpower New Zealand Ltd</i>	Other	General	Adopt any other such relief, including additions, deletions or consequential amendments necessary as a result of the matters raised in these submissions, as necessary to give effect to this submission.	49/56/8	
<i>Trojan Holdings Ltd</i>	Partly Support	Rules - Levels of Activities	<p>Amend proposed Rule 22.3.2.1(c)(i) to read:            "(i) Earthworks and bulk earthworks carried out in accordance with any relevant Conservation Management Plan or Strategy or Concession approved by Department of Conservation."</p> <p>Trojan supports the proposed earthworks provisions of PC49, which specifically exempt all earthworks and bulk earthworks carried out in accordance with any relevant Conservation management Plan or Concession approved by the Department of Conservation (Rule 22.3.2.1 (c) (i)), but seeks the amendment as no Conservation management Plan currently applies to its ski field areas.</p>	49/57/1	
<i>Trojan Holdings Ltd</i>	Support	Site standards	Supports the restricted discretionary activity consent status for earthworks in ski areas not located on Public Conservation Land for breaching cut heights, angle of slope or height of fill or for bulk earthworks in these areas in order to enable an assessment of effects of these works.	49/57/2	
<i>Trojan Holdings Ltd</i>	Support	Objectives	Supports proposed Objectives 2 and 4	49/57/3	
<i>Trojan Holdings Ltd</i>	Partly Support	Policies	<p>Supports proposed Policy 4.4 subject to it being amended as follows in order to provide clarification around landscape classifications:</p> <p>"To provide for earthworks that enable the growth, development and consolidation of ski fields within Ski Area Sub-Zones and recognising these areas are exempt from the District Wide Landscape Classification criteria.</p>	49/57/4	
<i>Trojan Holdings Ltd</i>	Other	General	<p>Amend Site Standard 5.3.5.1(x) such that it shall not apply to indigenous vegetation clearance carried out in accordance with any relevant Conservation Management Plan or Strategy or Concession approved by the Department of Conservation.</p> <p>Should the Council consider this submission to be beyond the scope of PC49, Trojan requests that the change be made as part of the overall review of the Part 5 Rural Area provisions.</p>	49/57/5	
<i>Trojan Holdings Ltd</i>	Support	General	Supports simplifying and streamlining the proposed earthworks for these other District Plan Zones into one chapter of the District Plan.	49/57/6	
<i>Trojan Holdings Ltd</i>	Support	General Provisions/ cross referencing	Supports proposed Rule 22.3.1(ii)(a)(i) insofar as it specifies the earthworks rules do not apply to earthworks approved as part of a subdivision approved as a Controlled Activity consent pursuant to new Rule 15.2.20.	49/57/7	

Name	Position	Plan Provision	Decision Requested	Submission Number	Further Submissions
<i>Trojan Holdings Ltd</i>	Partly Support	Site standards	Generally Trojan supports: - Removing the minimum area of exposed soil from the proposed earthworks provisions. - The proposed Table 22.1 format, which groups the District Plan Zones into seven categories or 'Tiers' - The proposed increase in the permitted earthworks volumes across the proposed Tiers as this will avoid large numbers of Resource Consents. Tier 2 should be re-worded to make clear its requirements only apply to say "ONLs in the Rural general Zone" to avoid any confusion over the application of landscape classification for earthworks proposals.	49/57/8	
<i>Trojan Holdings Ltd</i>	Support	Definitions	Supports the exclusion of mining and quarrying activities from the application of the proposed earthworks rules, as provided for by the new definitions for those activities.	49/57/9	
<i>Trojan Holdings Ltd</i>	Partly Support	General	That Plan Change 49 be approved subject to Trojan's submission being accepted and the plan change being accordingly amended, or any such other relief that will address the points made in Trojan's submission, including any consequential amendments that may be required.	49/57/10	
<i>Woodlot Properties</i>	Other	Objectives	Amend Objective 1 to include "and mitigate" after the word "avoid"	49/58/1	
<i>Woodlot Properties</i>	Other	Policies	Amend Policies 1.1 - 1.5 to include "and mitigate" after the word "avoid" and add the word "remedy" to Policy 1.5  Amend Policies 2.1 and 2.2 to include "and mitigate" after the word "avoid"  Amend Policy 3.3 to include the words "remedy and mitigate" after the word "avoid" and to remove the words "including tracking".	49/58/2	
<i>Woodlot Properties</i>	Other	Objectives	Replace the word "adverse" in Objective 2 with the word "inappropriate" to better reflect Section 6b of the RMA.	49/58/3	
<i>Woodlot Properties</i>	Other	Site Standards	Amend the Tier 2 and Tier 6 quantities to reflect the size of the Rural General properties and make these quantities permitted regardless of landscape classification. For example: - On landholdings less than 10 ha: 1,000m3 per annum - On landholdings 10 - 50 ha: 2,000m3 per annum - On landholdings 100 - 500 ha: 2,500 m3 per annum - On landholdings 500 - 1,000 ha: 3,000m3 per annum - On landholdings greater than 1,000 ha: 3,500 m3 per annum - and, apply a similar permitted scale relative to landholding size to the urban zones	49/58/4	

**Key : Further Submitters**

Heritage New Zealand – HNZ

Support – S

Oppose – O

Queenstown Airport Corporation – QAC

Support in Part – S/P

Oppose in Part – O/P

## **Appendix 3 – Plan Change 49 as Amended by Recommendations**

### **Summary of Amendments**

- Section 22 to be inserted.
  - Interpretative Diagrams – for information purposes only (to be retained as contained in Appendix 4 of the Operative District Plan).
1. Amend Section 4.1.2; Section 4.11 to be deleted.
  2. Amend Rule 5.3.2 and Rule 5.7.2; Rule 5.3.3.2viii, Rule 5.3.5.1viii , Rule 5.4.2.3 xxvii and Rule 5.7.5.1iv to be deleted.
  3. Amend Rule 6.2.2.
  4. Amend Rule 7.5.2; Rule 7.5.5.2xvi, Rule 7.5.6.2xi, Rule 7.6.5.1vi, Rule 7.6.6.1v and Rule 7.7.2xxi to be deleted.
  5. Amend Rule 8.2.1; Rule 8.2.4.1x and Rule 8.3.2xiv to be deleted.
  6. Amend Rule 9.2.2; Rule 9.2.5.1xii and Rule 9.3.2xviii to be deleted.
  7. Amend Rule 10.6.2; Rule 10.6.5.1x, Rule 10.7.5.1x, Rule 10.8.5.1ix, Rule 10.9.5.1vi and Rule 10.10.2xxi to be deleted.
  8. Amend Rule 11.2.2 and Rule 11.3.2; Rule 11.2.5.1vii, Rule 11.3.5.1vii, Rule 11.4.2xi, Rule 11.5.6-6 & 19 and Rule 11.6.3iv to be deleted.
  9. Amend Rule 12.4.2; Rule 12.4.5.1iv to be deleted.
  10. Amend Rule 15.2.3.6(i); Rule 15.2.20 to be inserted.
  11. Amend Rule 20.2.1 and Rule 20.2.2.2; Rule 20.2.2.5 to be deleted.
  12. Definitions to be amended to insert and/or amend definitions.

## 22 Earthworks

### 22.1 Purpose

The majority of earthworks are associated with subdivision and building development. The topography of the Queenstown Lakes District means that land modification through earthworks is typically associated with subdivision and development. Some modification of the natural landscape is inevitable in order to provide for development, including safe and stable building sites and access with a suitable gradient.

Earthworks can be significant and result in long term effects. Earthworks have the potential to alter landforms, landscapes, and natural features, and to have effects on heritage landscapes, to such an extent that the identity, amenity values and character of an area can be changed permanently.

During the construction phase earthworks can generate temporary effects, including visual effects, sediment run-off and erosion, dust, noise and vibration and traffic effects. On most sites these effects can be mitigated through putting in place appropriate environmental protection measures.

The District Plan seeks to encourage an integrated assessment of activities. In many instances the completed subdivision engineering works or building will remedy the effects of the earthworks.

The National Policy Statement for Freshwater Management (2014) sets out objectives and policies that direct local government to manage water in an integrated and sustainable way. This includes improved integrated management of fresh water and the use and

development of land in whole catchments, including the interactions between fresh water, land and associated ecosystems.

The provisions of this section seek to be consistent with the Otago Regional Policy Statement and Regional Plans. Where the provisions refer to aquifers, reference should be made to the Regional Plan : Water for Otago maps. Four main aquifers are noted - Hawea Basin, Wanaka Basin, Cardrona alluvial ribbon and Wakatipu Basin, and other lesser aquifers also need to be considered.

### 22.2 Objectives and Policies

#### Objective 1

**Enable earthworks that are part of subdivision, development, or access, provided that they are undertaken in a way that avoids, remedies or mitigates adverse effects on communities and the natural environment.**

#### Policies:

1.1 Promote earthworks designed to be sympathetic to natural topography where practicable, and that provide safe and stable building sites and access with suitable gradients.

1.2 Use environmental protection measures to avoid, remedy or mitigate adverse effects of earthworks.

1.3 Require remedial works and re-vegetation to be implemented in a timely manner.

1.4 Avoid, remedy or mitigate the long term adverse effects of unfinished projects.

1.5 Recognise that earthworks associated with infrastructure can positively contribute to the social and economic wellbeing and the health and safety of people and communities within the District.

## Objective 2

**Avoid, remedy or mitigate the adverse effects of earthworks on rural landscapes and visual amenity areas.**

### Policies:

2.1 Avoid, where practicable, or remedy or mitigate adverse effects of earthworks on Outstanding Natural Features and Outstanding Natural Landscapes.

2.2 Avoid, where practicable, or remedy or mitigate adverse visual effects of earthworks on visually prominent slopes, natural landforms and ridgelines.

2.3 Ensure cuts and batters are sympathetic to the line and form of the landscape.

2.4 Ensure remedial works and re-vegetation mitigation are effective, taking into account altitude and the alpine environment.

Note: The objectives and policies in Section 4.2 of the District Plan are also relevant to earthworks.

## Objective 3

**Ensure earthworks do not adversely affect the stability of land, adjoining sites or exacerbate flooding.**

### Policies:

3.1 Ensure earthworks, in particular, - cut, fill and retaining, - do not adversely affect the stability of adjoining sites.

3.2 Ensure earthworks do not cause or exacerbate flooding, and avoid, remedy or mitigate the adverse effects of de-watering.

3.3 Avoid the adverse effects of earthworks on steeply sloping sites, where land is prone to erosion or instability, where practicable. Where these effects cannot be avoided, to ensure techniques are adopted that remedy or mitigate the potential to decrease land stability.

## Objective 4

**Enable earthworks in the Rural General Zone, the Rural Visitor Zone and the Gibbston Character Zone that improve the efficiency, safety and economic viability of farming operations, and public recreation.**

### Policies:

4.1 Provide for earthworks associated with farming activities where they enhance the efficiency of operations, including the maintenance and improvement of track access and fencing.

4.2 Provide for earthworks to create fire breaks.

4.3 Provide for earthworks associated with remedial works necessitated by extreme weather events.

4.4 Provide for earthworks associated with public recreation, where practicable.

**Objective 5**

**Enable the development and operation of ski-fields within Ski Area Sub-Zones.**

**Policy:**

5.1 Provide for earthworks that enable the growth, development and consolidation of ski-fields

**Objective 6**

**Maintain or improve water quality of rivers, lakes and aquifers.**

**Policies:**

6.1 Avoid the adverse effects of earthworks in close proximity to water bodies, where practicable. Where these cannot be avoided, ensure that sediment control techniques are put in place to avoid, remedy or mitigate sediment run-off.

6.2 Avoid earthworks adversely affecting water aquifers including the Hawea Basin, Wanaka Basin, Cardrona alluvial ribbon and Wakatipu Basin aquifers and other lesser aquifers.

**Objective 7**

**Protect cultural heritage, including waahi tapu, waahi taonga, archaeological sites and Heritage Landscapes from the adverse effects of earthworks.**

**Policies:**

7.1 Ensure that iwi are consulted regarding earthworks that may affect sites of significance to Maori, including Statutory Acknowledgement Areas.

7.2 Consult with Heritage New Zealand where proposed earthworks may affect any archaeological sites.

7.3 Recognise and protect the values of Heritage Landscapes from the adverse effects of earthworks.

7.4 Protect heritage buildings and structures from potential undermining and vibration effects resulting from earthworks on the same site or from sites in close proximity.

**Objective 8**

**Provide for cleanfill capacity on appropriate sites and promote diversion of cleanfill material from landfills.**

**Policies:**

8.1 Ensure materials for deposition at cleanfill facilities meet acceptance criteria.

8.2 Ensure that proposals for new cleanfill facilities consider the suitability of the site, in terms of accessibility, landscape, stability, visual amenity and options for long term use.

8.3 Avoid significant water bodies and their margins.

8.4 Avoid sites of cultural heritage and archaeological significance.

8.5 Ensure cleanfill facilities avoid or mitigate the adverse effects of dust, noise and traffic on neighbours and residential areas.

8.6 Ensure cleanfill sites are rehabilitated and remedial restoration works carried out in a timely manner.

## 22.3 Earthworks Rules

### 22.3.1 General Provisions / Cross Referencing

#### i District Wide Rules

- (a) Attention is drawn to the following District Wide Rules that may apply in addition to the Section 22 Earthworks Rules. If District Wide Rules are not met then resource consent will be required in respect of that matter.
  - (i) Rural Areas (Section 5) and Appendix 5 for Areas of Significant Indigenous Vegetation
  - (ii) Heritage (Section 13) and Appendix 10 for Heritage Landscapes
  - (iii) Transport (Section 14)
  - (iv) Subdivision (Section 15)
  - (v) Hazardous Substances (Section 16)
  - (vi) Utilities (Section 17)
  - (vii) Relocated Buildings and Temporary Activities (Section 19)

#### ii. Regional Plan/Airport Protection

- (a) Some earthworks may also require consents under Regional Plan provisions. Accordingly those who wish to undertake earthworks are advised to consult the relevant Regional Plans.

- (b) Figures 1 to 4 of the District Plan identify the Airport Protection Inner Horizontal and Conical Surfaces for Queenstown and Wanaka Airports and these are further described in Designations D.3 and E.2. Those who wish to undertake earthworks in the vicinity of Queenstown and Wanaka Airport are advised to consult with the relevant requiring authority and the Civil Aviation Authority.

#### iii Archaeological Sites

- (a) All archaeological sites within the District are protected from modification, damage or destruction by the Heritage New Zealand Pouhere Taonga Act 2014. An archaeological authority may need to be obtained from the Heritage New Zealand prior to commencing earthworks.
- (b) Any item in the Inventory of Protected Features at Appendix 3 is subject to the rules in Section 13 of this Plan.

#### iv Resource Management (National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health) Regulations 2011

The status of some activities will be determined by the requirements of the Resource Management (National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health) Regulations 2011. Reference should be made to the Ministry of Environment website for a copy of the regulations, user's guide, and latest version of documents incorporated by reference in the regulations. This regulation will be applicable to earthworks on sites where a *"hazardous activity or industry [HAIL] has been, is more likely than not to have been or is currently operating"*.

## v QLDC Earthworks Guideline

Reference should be made to “A Guide To Earthworks In The Queenstown Lakes District” to assist in the achievement of the following standards and best practice.

### 22.3.2 Activities

#### 22.3.2.1 Permitted Activities

- (a) Any earthworks activity which complies with all the relevant Site Standards and is not listed as a **Controlled, Restricted Discretionary, Discretionary, Non-Complying** or **Prohibited Activity** shall be a **Permitted Activity**.
- (b) The following earthworks activities are exempt from Rule 22.3.3i Volume of Earthworks and Rule 22.3.3ii Height of cut and fill and slope:
  - (i) Earthworks associated with the maintenance of farm track access, fencing, firebreaks and public recreational tracks.
  - (ii) Earthworks associated with the replacement and/or removal of a fuel storage system as defined and controlled in the Resource Management (National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health) Regulations 2011.
  - (iii) Earthworks that are necessary to ensure that property and structures are protected from damage during extreme weather events and earthworks of a remedial nature that are

necessary following such extreme weather events.

- (c) Earthworks in the **Ski Area Sub-Zones** are exempt from the rules in Section 22 of the District Plan.
- (d) Earthworks in any of the **Special Zones** that are listed in Section 12 of the District Plan except for the **Rural Visitor Zone** are exempt from the rules in Section 22 of the District Plan.
- (e) Earthworks as listed in (i)-(iii) below are also exempt from the rules in Section 22 of the District Plan:
  - (i) That are associated with a subdivision consented under Rule 15.2.20; or
  - (ii) That are associated with a subdivision consented prior to [the date of release of Council decisions on submissions to PC49], or
  - (iii) That are associated with the construction of a house within an approved residential building platform.

#### 22.3.2.2 Controlled Activities

- (a) The following shall be **Controlled Activities** provided they are not listed as a **Permitted, Restricted Discretionary, Discretionary, Non-Complying** or **Prohibited Activity** and they comply with all the relevant Site Standards:

In the **Open Space Zones** the formation of cycling and walking trails (including boardwalks and viewing platforms) and associated earthworks, is a Controlled Activity, with matters in respect of which Council has reserved control being:

- (i) The nature and scale of the earthworks
- (ii) Environmental protection measures
- (iii) Remedial works and revegetation
- (iv) The effects on landscape and visual amenity values
- (v) The effects on land stability and flooding
- (vi) The effects on water bodies
- (vii) The effects on cultural and archaeological sites
- (viii) Noise.
- (ix) The effects of earthworks on the natural character of wetlands, lakes and rivers and their margins
- (x) The location of trails and viewing platforms.
- (xi) The size of viewing platforms and boardwalks.
- (xii) Cumulative effects associated with the number of other trails within the Zone.

#### 22.3.2.3 Restricted Discretionary Activities

- (a) Earthworks that are not listed as a **Permitted, Controlled, Discretionary, Non-Complying** or **Prohibited Activity** and that do not comply with one or more of the Site Standards within Rule 22.3.3 shall be a **Restricted Discretionary Activity**.
- (b) The matters in respect of which Council has reserved discretion are:

- (i) The nature and scale of the earthworks
- (ii) Environmental protection measures
- (iii) Remedial works and revegetation
- (iv) The effects on landscape and visual amenity values
- (v) The effects on land stability and flooding
- (vi) The effects on water bodies
- (vii) The effects on cultural and archaeological sites
- (viii) Noise.

#### 22.3.2.4 Discretionary Activities

The following are **Discretionary Activities**, provided they are not listed as **Permitted, Controlled, Restricted Discretionary, Non-Complying** or **Prohibited Activities**

##### Cleanfill Facilities

- (a) Creation of a new cleanfill facility, providing that the cleanfill material is strictly limited to acceptable materials being the materials listed in the definition of Cleanfill.

##### Bulk Earthworks

- (b) Earthworks with a total volume of over 50,000 cubic metres. The maximum total volume of such earthworks shall be calculated per site, within one consecutive 12 month period.

### 22.3.2.5 Non-Complying Activities

The following are **Non-Complying Activities**, providing that they are not listed as **Permitted, Controlled, Restricted Discretionary, Discretionary** or **Prohibited Activities**.

#### Cleanfill Material

- (a) The introduction of any material other than an acceptable material prescribed in Rule 22.3.2.4(a) into a cleanfill facility or into any other earthworks.

#### Open Space Zones

- (b) Earthworks not associated with the creation of cycling or walking trails (including boardwalks and viewing platforms) and associated earthworks as provided for in Rule 22.3.2.2.

#### Cromwell-Frankton A National Grid Electricity Line

- (c) Any earthworks, cleanfill or mining activity which does not comply with Rule 22.3.3viii(i)-(iii) with respect to the Cromwell-Frankton A National Grid Electricity Line.

### 22.3.2.6 Non-notification of applications

Any application for resource consent for the following matters shall not require the written approval of affected parties and shall not be notified or limited-notified:

- (i) Earthworks - except for earthworks involving special circumstances such as blasting, presence of substantial groundwater or earthworks located within any required building setback from an internal or road boundary (unless entirely within an approved residential building platform).

- (ii) A breach of Rule 22.3.3 i Volume of Earthworks in Tier 5 Zones (see Table 22.1), except where the site adjoins a Residential Zone or Open Space Zone.

Any application for resource consent in respect of Rule 22.3.3 viii Cromwell-Frankton A National Grid Electricity Line with the written approval of the tower owner.

### 22.3.3 Site Standards

#### i Volume of Earthworks

The maximum total volume of earthworks (m<sup>3</sup>) shall not exceed that specified in Table 22.1.

- (a) The maximum total volume of earthworks shall be calculated per site, within one consecutive 12 month period.
- (b) Volume shall mean the sum of all earth that is moved within a site and includes any combination of cut and fill, removing fill off-site and replacing fill on site - refer Interpretive Diagrams 5 (a), (b) and (c).

#### ii Height of cut and fill and slope

- (a) Rural General Zone, Rural Visitor Zone and Gibbston Character Zone:
- (i) No road, track or access way shall have an upslope cut or batter greater than 1 metre in height, measured vertically.
- (ii) All cuts and batters shall be laid back such that their angle from the horizontal is no more than 65 degrees.
- (iii) The maximum height of any fill shall not exceed 2 metres.

(b) All other Zones:

- (i) The maximum height of any cut shall not exceed 2.4 metres.
- (ii) The maximum height of any fill shall not exceed 2 metres.
- (iii) The vertical height of any cut or fill shall not be greater than the distance of the top of the cut or the toe of the fill from the site boundary (see Interpretative Diagram 6) , except where the cut or fill is retained, in which case it may be located up to the boundary, if less or equal to 0.5 metre in height.

**iii Fill**

All fill for residential building platforms and associated retaining walls is to be in accordance with the requirements of NZS 4404:2010 and/or NZS 4431:1989 as appropriate.

**iv Environmental Protection Measures**

- (a) Any person carrying out earthworks shall implement sediment and erosion control measures to avoid sediment effects beyond the boundary of the site.
- (b) Any person carrying out earthworks shall implement appropriate dust control measures to avoid nuisance effects of dust beyond the boundary of the site.
- (c) Areas of exposed soil are to be vegetated / re-vegetated within 12 months from the completion of works.

Table 22.1

Tier	Zones	Maximum Total Volume
<b>Tier 1</b>	Residential Arrowtown Historic Management Zone Arrowtown Town Centre Zone Town Centre Zone Special Character Areas Makarora Rural Lifestyle Zone	100m <sup>3</sup>
<b>Tier 2</b>	Open Space Zone Heritage Landscapes	200m <sup>3</sup>
<b>Tier 3</b>	Low Density Residential Zone High Density Residential Zone (Sub-Zone C) Township Zone – Hawea, Luggate , Albert Town, Makarora, Glenorchy, Kingston, Kinloch	300m <sup>3</sup>
<b>Tier 4</b>	High Density Residential Zone (Sub-Zones A and B) Rural Residential Zone Rural Lifestyle Zone (except Makarora)	400m <sup>3</sup>
<b>Tier 5</b>	Business and Industrial Zones Town Centre Zones (except Arrowtown and Special Character Areas) Queenstown Airport Mixed Use Zone	500m <sup>3</sup>
<b>Tier 6</b>	Rural General Zone (except in an area containing significant indigenous vegetation (refer Rule 5.3.5.1v) and in Heritage Landscapes) Gibbston Character Zone Rural Visitor Zone	1000m <sup>3</sup>
<b>Tier 7</b>	Any zone not listed above in Tier 1 to 6 (except for those subject to Rule 22.3.2.1(c) and (d))	100m <sup>3</sup>

**v Water bodies**

- (a) Earthworks within 7m of the bed of any water body shall not exceed 20m<sup>3</sup> in total volume, within one consecutive 12 month period.
- (b) Any material associated with earthworks activity shall not be positioned within 7m of the bed of any water body or where it may dam, divert or contaminate water.
- (c) Earthworks shall not:
  - (i) cause artificial drainage of any groundwater aquifer;
  - (ii) cause temporary ponding of any surface water.

**vi Cultural heritage and archaeological sites**

- (a) Earthworks shall not modify, damage or destroy any waahi tapu, waahi taonga or archaeological sites that are identified in Appendix 3 of the Plan.
- (b) In the Rural General Zone, earthworks within areas identified as Ngai Tahu Statutory Acknowledgment Areas shall not exceed 20m<sup>3</sup> in volume.

**vii Construction Noise**

- (a) Construction noise arising from earthworks activities shall be subject to the limits in, and shall be measured and assessed in accordance with, NZS 6803:1999 "Acoustics – Construction Noise". This Standard covers sound from construction work which is of a limited duration.

- (b) Where the sound from a construction activity is part of the overall sound emission from an ongoing land use activity, then the overall sound level shall meet the relevant standard within the zone in which the activity is located, or the higher of the two values for the duration of the earthworks activity.

**viii Cromwell-Frankton A National Grid Electricity Line**

Any earthworks, cleanfill or mining activity within 12m of a support structure (tower) or within 12m of the centreline of the Cromwell - Frankton A line shall not:

- (i) Exceed a depth of 300mm within 12m of any National Grid support structure (tower) foundation.
- (ii) Compromise the stability of a National Grid support structure.
- (iii) Result in a reduction in the ground to conductor clearance distances below what is required by Table 4 of the New Zealand Electrical Code of Practice for Electrical Safe Distances (NZECP 34: 2001).

Provided that the following are exempt from point (i) above:

- Earthworks for a network utility within a transmission corridor, as part of a transmission activity, or for electricity infrastructure (including generation infrastructure); or
- Earthworks undertaken as part of agricultural or domestic cultivation, or repair, sealing or re-sealing of a road, footpath, driveway or farm track; or
- Vertical holes not exceeding 500mm in diameter provided they:
  - i. are more than 1.5m from the outer edge of pole support structure or stay wire; or

- ii. are a post hole for a farm fence or horticulture structure and are more than 5m from the visible outer edge of a tower support structure foundation.

## 22.4 Resource Consents – Assessment Matters

In considering whether or not to grant consent or impose conditions, the Council shall have regard to, but not be limited by, the following assessment matters:

### i Nature and scale of the Earthworks

- (a) Whether the earthworks are a necessary part of subdivision, development or access construction and the extent to which the subdivision engineering works, building or finished project will remedy the effects of the earthworks.
- (b) Whether the design of the finished earthworks is sympathetic to natural topography, provides safe and stable building platforms and access with suitable gradient.
- (c) Whether earthworks will be completed within a short period, reducing the duration of any adverse effects.
- (d) Whether the mitigation measures proposed, reflect the level of environmental effects from the project.

In addition, in the Rural General Zone, Rural Visitor Zone and Gibbston Character Zone:

- (e) Whether the proposed earthworks are associated with farming activities and will enhance operational efficiency including maintenance and improvement of track access and fencing.
- (f) Whether the earthworks are to create a fire break and whether the area is identified on the Natural Hazards Register as a high fire risk.
- (g) Whether the earthworks are associated with public recreation trails that enhance recreational opportunities and access.

Note: Assessment matters in Rules 5.4.2, 5.8.2 and 12.5.2 may also be relevant in the context of the Rural General Zone, Gibbston Character Zone and Rural Visitor Zone, respectively.

### ii Environmental Protection Measures

- (a) Whether, and to what extent proposed sediment and erosion control techniques are adequate to ensure sediment remains on-site.
- (b) Whether appropriate measures to control dust emissions are proposed, including from associated transport on and off the site.
- (c) Whether the earthworks will adversely affect stormwater and overland flows, and create adverse effects off-site.
- (d) Hours of operation, including whether the activity will generate noise and vibration effects, which detract from the amenity values of the surrounding area.

**iii Remedial works and revegetation**

- (a) The proposed rehabilitation of the site and to what extent re-vegetation will mitigate any adverse effects.
- (b) The timeframes proposed for remedial works and revegetation.
- (c) The effectiveness of the remedial works and re-vegetation taking into account altitude and the alpine environment.

**iv Effects on rural landscape and visual amenity values, including on Outstanding Natural Features and Outstanding Natural Landscapes.**

- (a) Whether and to what extent, the scale and location of any cut and fill will adversely affect:
  - (i) the visual quality and amenity values of the landscape;
  - (ii) the natural landform of any ridgeline or visually prominent area;
  - (iii) the visual amenity values of surrounding sites.
- (b) Whether the earthworks will take into account the sensitivity of the landscape.
- (c) The potential for cumulative effects on the natural form of the existing landscape.
- (d) Whether and to what extent the earthworks create an area that is inconsistent with the character of the surrounding landscape.

- (e) Whether the location and/or design of any new tracking can be modified in order to decrease the effects on the stability, visual quality and amenity values of the landscape.

**v Land Stability and Flooding**

- (a) Where earthworks are proposed on a site gradient > 18.5 degrees (1 in 3), whether a geotechnical report has been supplied to assess the stability of the earthworks
- (b) Whether the earthworks will adversely affect the stability of neighbouring sites.
- (c) Whether cut, fill and retaining are done in accordance with engineering standards.
- (d) Whether the earthworks will change surface drainage, and whether the adjoining land will be at a higher risk of inundation, or a raised water table.
- (e) Whether and to what extent earthworks are necessary in order to undertake flood protection works recognising the long-term benefits of effective flood mitigation measures on the surrounding environment.

**vi Water bodies**

- (a) The effectiveness of sediment control techniques.
- (b) Whether and to what extent any groundwater is likely to be affected, and if any mitigation measures are proposed to address likely effects.
- (c) The effects of earthworks on the natural character of wetlands, lakes and rivers and their margins.

**vii Impacts on Sites of Cultural Heritage Value:**

- (a) The extent to which the activity modifies or damages waahi tapu or waahi taonga, and whether tangata whenua have been notified.
- (b) The extent to which the activity affects Ngai Tahu's cultural, spiritual, historic and traditional association with a Statutory Acknowledgment Area having regard to the relevant provisions of the Kai Tahu ki Otago and Te Ao Marama Incorporated Natural Resource Management Plans.
- (c) Whether the subject land contains a recorded archaeological site, and if so the extent to which the proposal would affect any such site and whether any necessary archaeological authority has been obtained from Heritage New Zealand.
- (d) The extent to which earthwork activities adversely affect values within Heritage Landscapes of the District.
- (e) The extent to which earthworks activities have the potential to adversely affect heritage buildings or structures located in close proximity to the site of the proposed earthworks and the adequacy of any avoidance or mitigation measures put forward to address such risks or effects.

Note: A recorded archaeological site is a site recorded via the New Zealand Archaeological Association's Site Recording Scheme and information is available at [www.archsite.org.nz](http://www.archsite.org.nz).

**viii Bulk Earthworks**

In addition to the assessment matters above:

- (a) Whether and the extent to which the earthworks are an integral part of subdivision and land use.
- (b) Whether the effect of the earthworks will be temporary and the extent to which revegetation and future buildings will mitigate the visual effects.
- (c) Provision of engineering and geotechnical assessments that reflect the scale of the bulk earthworks.
- (d) Whether there will need to be off-site disposal of excess material and assessment of any traffic effects.
- (e) Whether a comprehensive site management plan has been supplied and the adequacy of sediment and erosion control, dust control, vibration and noise, traffic, hours of operation, health and safety and any other measures employed to reduce the impact on residential neighbours and other sensitive receivers such as aircraft operating in the Airport Protection Inner and Conical Surfaces for Queenstown and Wanaka Airports.
- (f) Whether the use of legal instruments, such as a bond to ensure work is completed, are proposed.

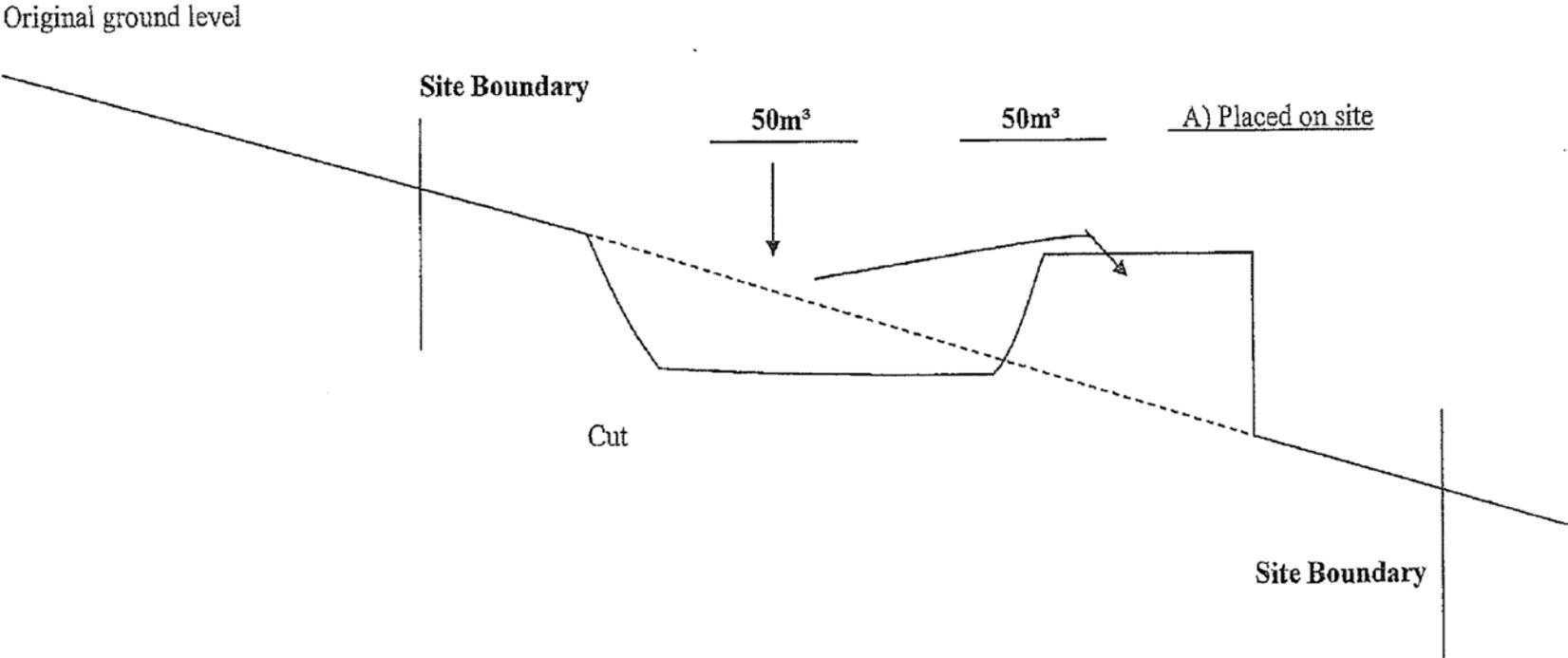
**ix Cleanfill Facilities and Cleanfill Material**

- (a) Whether the source and type of cleanfill material is suitable.
- (b) The suitability of the topography for cleanfill development and whether the site has been demonstrated to be stable.

- (c) Whether the location of a new cleanfill facility meets Policies 8.2 to 8.5
- (d) Whether a comprehensive site management plan has been supplied and the adequacy of sediment and erosion control, dust control, vibration and noise, traffic, hours of operation, health and safety and any other measures employed to reduce the impact on residential neighbours.
- (e) Provision of plans addressing site rehabilitation, remedial restoration works and timeframes.
- (f) Whether the use of legal instruments such as a bond to ensure work is completed is necessary and appropriate.

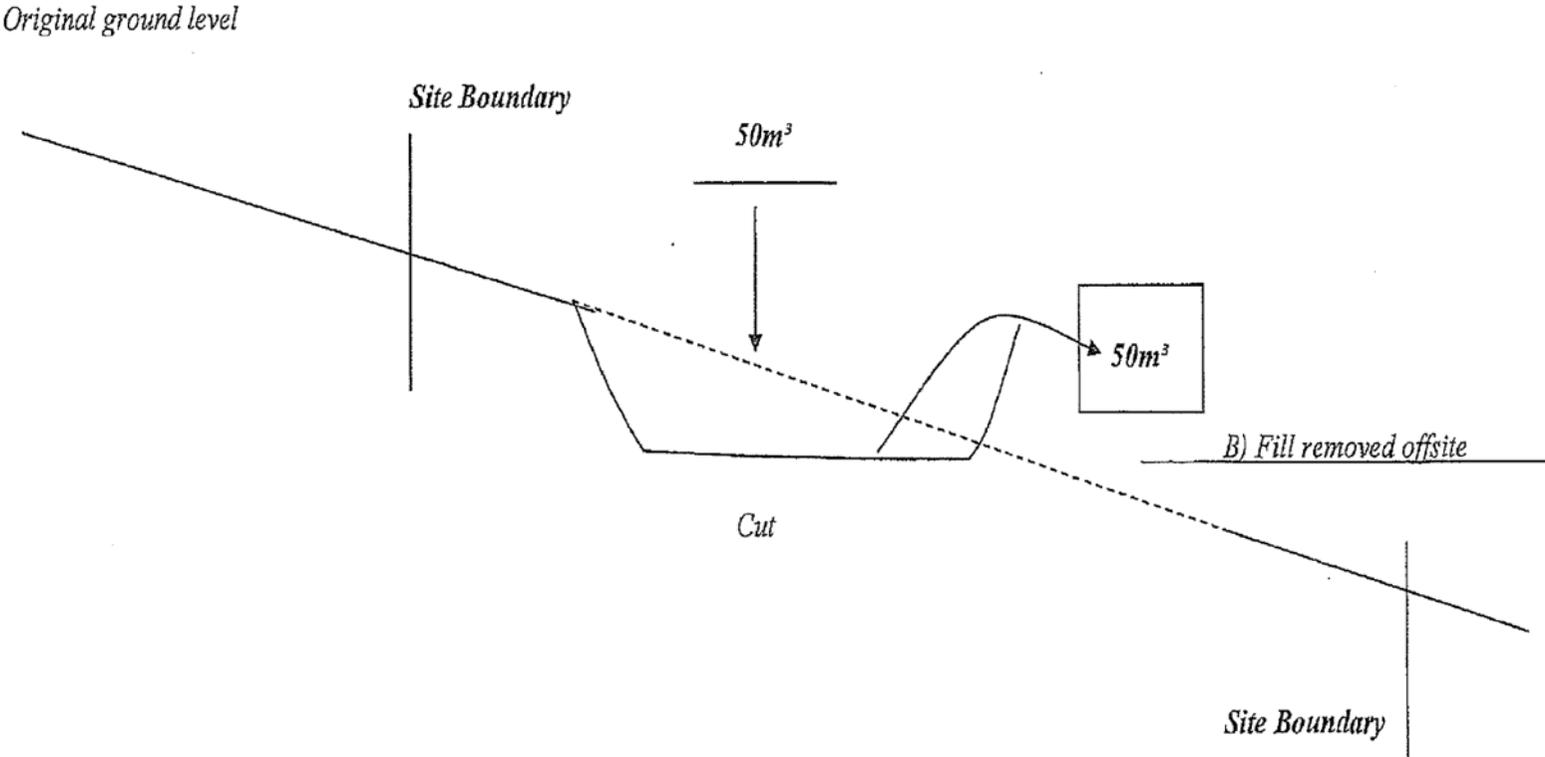
5(a) The total volume of earthworks means 'the total volume of all earthworks that is moved within a site' as below:

A) Total Volume =  $50\text{m}^3$  (Cut) +  $50\text{m}^3$  (Fill)  
 $=100\text{m}^3$



5 (b) The total volume of earthworks means 'the total volume of all earthworks that is moved within a site'. For Example:

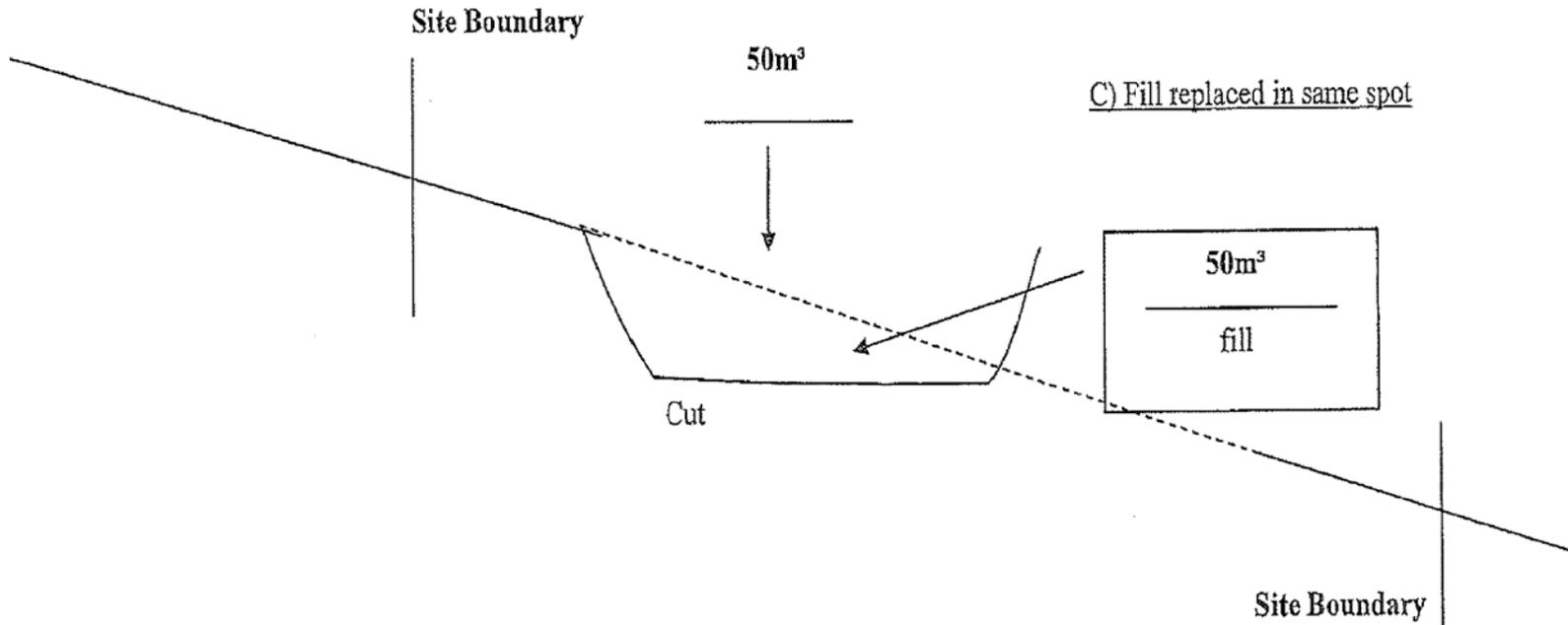
B) Total Volume =  $50m^3$  (Cut) removed off-site  
=  $50m^3$



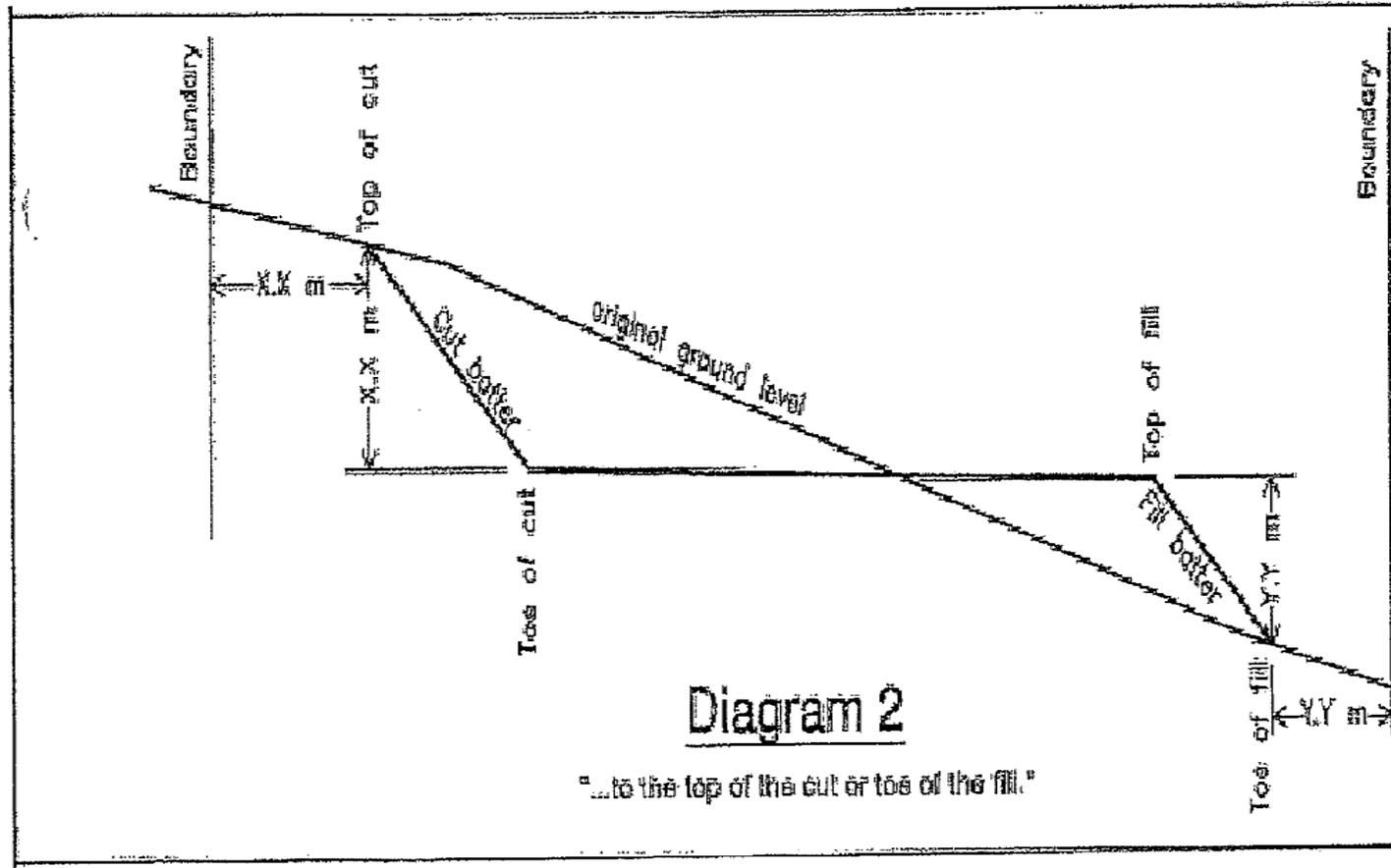
5 (c) The total volume of earthworks means 'the total volume of all earthworks that is moved within a site' for Example:

C) Total Volume =  $50\text{m}^3$  (Cut) removed, refilled in the same spot  
 $=100\text{m}^3$

Original ground level



6. The distance between the boundary and the cut or fill shall be at the top of the cut batter/slope/face or to the toe of the fill batter/slope/face (as below).



## Plan Change 49 Earthworks

### Proposed amendments as recommended 10 April 2015

The proposed amendments are shown as ~~strikethrough~~ and proposed additions are shown as underlined.

1. *Delete the 4.11 Earthworks from Section 4 District Wide Issues as follows:*

## 4. District Wide Issues

### 4.1 Natural Environment

...

#### 4.1.2 Resources, Activities and Values

The resources and values of the natural environment of the District and the activities that interact with those resources and values are described in various parts of this District Plan, namely:

- ~~Part 4 Section 2~~ 4.2 Landscape and Visual Amenity
- ~~Part 4 Section 3~~ 4.3 Takata Whenua
- ~~Part 4 Section 4~~ 4.4 Open Space and Recreation
- ~~Part 4 Section 6~~ 4.6 Surface of Lakes and Rivers
- ~~Part 4 Section 8~~ 4.8 Natural Hazards
- ~~Part 4 Section 10~~ Section 22 Earthworks
- ~~Part Section 5~~ Rural Issues, Objectives and Policies

#### 4.1.3 Issues

Additional relevant issues are found in the following Parts of the District Plan:

- |                              |   |                 |
|------------------------------|---|-----------------|
| Landscape and Visual Amenity | - | <b>Part 4.2</b> |
| Takata Whenua                | - | <b>Part 4.3</b> |

- |                             |   |                             |
|-----------------------------|---|-----------------------------|
| Surface of Lakes and Rivers | - | <b>Part 4.6</b>             |
| Natural Hazards             | - | <b>Part 4.8</b>             |
| Earthworks                  | - | <b>Part 4.10 Section 22</b> |
| Rural Areas                 | - | <b>Part 5.3</b>             |

...

### 4.11 Deleted Earthworks

#### 4.11.1 Resources, Activities and Values

The topography of the Queenstown Lakes District often means that land modification, through earthworks, generally precedes the development of land. Some modification of the natural landscape is inevitable in order to provide safe and stable building platforms and roads with a suitable gradient. For example, in Queenstown, extensive excavation is often required to enable the further development of steep land. This has the potential to cause problems in terms of stability of adjacent properties, run-off and de-watering. Filling may also be used to increase the height of building platforms. This has the potential to alter the natural form of the landscapes, and has the potential to adversely affect the amenity values of neighbouring properties, and can alter drainage patterns.

Earthworks have the potential to alter landforms, landscapes and natural features to such an extent that the identity, amenity values and character of an area can be changed permanently. Therefore, while earthworks are temporary, their effects are often both significant and long term.

#### 4.11.2 Issues

**Sediment and soil run-off associated with earthworks have the potential to adversely affect water quality and the amenity values of neighbouring properties.**

The direct results of sediment run-off include damage to neighbouring properties, the blocking of drains and the sedimentation of waterways.

The factors that affect the amount of sediment run-off are rainfall, soil erodability, slope length and slope gradient. The closer the earthworks operation locates to a waterway, the more immediate the potential impact.

**Earthworks, either through excavation or filling, have the potential to permanently alter the natural shape and form of the landscape, particularly in areas of Outstanding Natural Features and Outstanding Natural Landscapes.**

Potential adverse effects from earthworks on landforms and landscapes range from the widespread practice of remodelling the land for subdivisions, cut and fill operations, to more minor earthworks such as ground contouring for building platforms or driveways. Cut and fill operations can adversely affect privacy, cause physical domination and over-shadowing if located too close to neighbouring property boundaries, and have the potential to permanently alter the form and shape of Outstanding Natural Features and Outstanding Natural Landscapes.

**Earthworks, including filling and excavation, have the potential to affect land instability and the potential for flooding.**

Earthworks activities have the potential to weaken soil structure and exacerbate soil instability, subsidence, and soil erosion. This may be caused by incorrectly placed excavated fill, unsupported excavations, inherent weak rock strata combined with steep slopes, or steep slopes stripped of vegetation. Excavations close to the boundary also have the potential to reduce the overall stability of the soil of the adjacent property. Particularly in Queenstown, the excavation of sites to develop building platforms has the potential to undermine neighbouring properties.

Earthworks may also cause or exacerbate flooding by altering the natural profile of landforms, including the modification of stormwater run-off channels and catchment topography. The effects of modifying the landscape, if carried out inappropriately may cause downstream flooding and inundation. Further, by placing impervious structures beneath ground level, the potential for flooding is increased through the process of 'de-watering'.

**Earthworks have the potential to adversely affect amenity values by creating noise and dust emissions.**

Earthworks activities can emit high levels of noise, vibrations and dust. Dust emissions can cause irritation to people living nearby, and in some cases can cause adverse health effects such as asthma.

Earthworks operations cause noise emissions through the use of large machinery, vehicle movements and in some cases blasting. These are particularly disturbing to amenity values if they occur early in the morning or late at night.

**Earthworks can disturb cultural heritage sites, including Waahi Tapu and Waahi Taoka, and archaeological sites.**

Waahi Tapu and Waahi Taoka and archaeological sites in the District can be destroyed through the excavation and filling of land. A process of identifying these sites needs to be established so that the adverse effects of earthworks can be avoided.

**Earthworks associated with tracking on highly visible slopes have the potential to adversely affect amenity values and permanently alter the landform.**

Earthworks associated with the formation of tracks on highly visible slopes have the potential to have an adverse effect on the landscape and/or feature, particularly in areas of Outstanding Natural Landscapes and Outstanding Natural Features.

**Earthworks have the potential to affect groundwater.**

Earthworks have the potential to adversely affect the groundwater resource by either exposing the groundwater or by reducing the depth of the protective mantle that overlies the aquifer, which reduces the filtering capacity of the protective mantle. In the Wakatipu Basin the risk of aquifer contamination the filtering capacity of the protective mantle. In the Wakatipu Basin the risk of aquifer contamination due to excavation is particularly high, because in parts the protective soil mantle is very thin.

### 4.11.3 Objectives and Policies

#### Objectives

To avoid, remedy or mitigate the adverse effects from earthworks on:

- (a) ~~Water bodies~~
- (b) ~~The nature and form of existing landscapes and landforms, particularly in areas of Outstanding Natural Landscapes and Outstanding Natural Features.~~
- (c) ~~Land stability and flood potential of the site and neighbouring properties~~
- (d) ~~The amenity values of neighbourhoods~~
- (e) ~~Cultural heritage sites, including waahi tapu and waahi taoka and archaeological sites~~
- (f) ~~The water quality of the aquifers.~~

#### Policies:

- 1. ~~To minimise sediment run-off into water bodies from earthworks activities through the adoption of sediment control techniques.~~
- 2. ~~To avoid the location of earthworks in close proximity to water bodies. Where this can not be avoided, to ensure that sediment control measures are put in place to minimise sediment run-off.~~
- 3. ~~To minimise the area of bare soil exposed and the length of time it remains exposed.~~
- 4. ~~To avoid or mitigate adverse visual effects of earthworks on outstanding natural landscapes and outstanding natural features.~~
- 5. ~~To avoid earthworks including tracking on steeply sloping sites and land prone to erosion or instability. Where this can not be avoided, to~~

~~ensure techniques are adopted that minimise the potential to decrease land stability.~~

- 6. ~~To protect the existing form and amenity values of residential areas by restricting the magnitude of filling and excavation.~~
- 7. ~~To ensure techniques are adopted to minimise dust and noise effects from earthworks activities.~~
- 8. ~~As far as practicable, to protect Waahi Tapu, Waahi Taoka, and other archaeological sites from potential disturbance resulting from earthworks.~~
- 9. ~~To notify Kai Tahu ki Otago where earthworks are proposed in areas identified in either the District Plan or the Natural Resource Management Plan as significant to iwi.~~
- 10. ~~To notify the NZ Historic Places Trust where proposed earthworks may affect archaeological sites.~~
- 11. ~~To ensure that work is suspended and Kai Tahu ki Otago and the NZ Historic Places Trust are notified when archaeological remains are observed or unearthed during earthworks activities.~~
- 12. ~~To avoid contaminating the water aquifers of the Queenstown Lakes District.~~

#### Implementation methods

##### (i) District Plan

- (a) ~~The inclusion of rules controlling the effects of earthworks activities in the Residential, Rural Living Areas, Townships, Town Centre, Business and Industrial, and Special Zones.~~

##### (ii) Other methods

- ~~(a) The provision of sediment control guidelines, which provide information on sediment control techniques, and best management practices for earthworks activities.~~
- ~~(b) Advise and provide information to local community groups, landholders and organisations~~
- ~~(c) Coordination with Te Runanga O Ngai Tahu, Kai Tahu ki Otago and the NZ Historic Places Trust in the identification and protection of sites of cultural heritage value.~~
- ~~(d) Advise and provide information to all those proposing to undertake earthworks with detailed information of the Wakatipu aquifers and mantle as provided by the Otago Regional Council.~~

### **Explanation and Principal Reasons for Adoption**

~~The Council recognises that most development requires some modification of the natural environment through earthworks, and that such operations have the potential to cause adverse environmental effects. Consequently, the Council has adopted an approach that enables development, while ensuring adverse environmental effects are minimised. This is achieved through placing controls on earthworks activities that are of a large magnitude, are on a steep site, close to neighbouring property, or within close proximity to a water body or within an Outstanding Natural Feature or Outstanding Natural Landscape.~~

~~Earthworks that comply with the site standards are a permitted activity. While the effects from such earthworks may be minor, the cumulative effects may be significant. It is therefore considered important that landowners are made aware of techniques they can adopt to minimise adverse effects.~~

**2. Delete the Earthworks rules from Section 5 Rural Areas as follows:**

## **5.3 Rural General and Ski Area Sub-Zone – Rules**

...

### **5.3.2 District Rules**

Attention is drawn to the following District Wide Rules, which may apply in addition to any relevant Zone Rules. If the provisions of the District Wide Rules are not met then consent will be required in respect of that matter:

- (i) Heritage Protection - Refer Part **Section 13**
- (ii) Transport - Refer Part **Section 14**
- (iii) Subdivision, Development and Financial Contributions - Refer Part **Section 15**
- (iv) Hazardous Substances - Refer Part **Section 16**
- (v) Utilities - Refer Part **Section 17**
- (vi) Signs - Refer Part **Section 18**
- (vii) Relocated Buildings and Temporary Activities - Refer Part **Section 19**
- (viii) Earthworks - Refer **Section 22**

...

### **5.3.3.2 Controlled Activities**

...

#### **viii Deleted Earthworks**

The following rules apply to all earthworks except:

- within the Ski Area Sub-Zone (as defined in this Plan);
- for earthworks approved as part of a subdivision where that subdivision has resource consent;
- for routine repair and maintenance of operational tracks; and
- for utility activities (as defined in this Plan, and as permitted or approved as per part 17, and excluding the development of access ways to the site containing the utility service);
- for earthworks approved as part of a resource consent for a residential building platform or a building.

- ~~for earthworks approved as part of a resource consent for a farming building except for earthworks associated with access.~~
- (a) ~~Earthworks where the maximum area of bare soil exposed is between 4000m<sup>2</sup> and 2500m<sup>2</sup> per site within any one consecutive 12 month period.~~
- (b) ~~Earthworks where the maximum volume of earth moved is between 300m<sup>3</sup> and 1000m<sup>3</sup> per site within any one consecutive 12 month period.~~
- ...

### 5.3.5.1 Site Standards

...

#### viii Deleted Earthworks

The following limitations apply to all earthworks except:

- ~~within the Ski Area Sub-Zone (as defined in this Plan);~~
- ~~for earthworks approved as part of a subdivision where that subdivision has resource consent;~~
- ~~for routine repair and maintenance of operational tracks;~~
- ~~for utility activities (as defined in this Plan, and as permitted or approved as per part 17, and excluding the development of access ways to the site containing the utility service);~~
- ~~for earthworks approved as part of a resource consent for a residential building platform or a building; and~~
- ~~for earthworks approved as part of a resource consent for a farming building except for earthworks associated with access.~~

#### 1. Earthworks

- (a) ~~Earthworks shall not exceed a maximum area of bare soil exposed of 2500m<sup>2</sup> per site, within any one consecutive 12 month period.~~
- (b) ~~Earthworks shall not exceed a maximum volume of moved earth greater than 1000m<sup>3</sup> per site, within any one consecutive 12 month period.~~
- (c) ~~Where any earthworks are undertaken within 7m of a water body the total volume shall not exceed 20m<sup>3</sup> (except for earthworks undertaken within a road designation for the purpose of establishing, upgrading and/or maintaining a State Highway network).~~

#### 2. Height of cut and fill and slope

- (a) ~~No road, track or access way shall (other than the Arrow Irrigation Scheme and flood protection works) have an upslope cut or batter greater than 1 metre in height, measured vertically.~~
- (b) ~~All cuts and batters shall be laid back such that their angle from the horizontal is no more than 65 degrees unless previously determined.~~
- (c) ~~The maximum height of any fill shall not exceed 2 metres.~~

#### 3. Environmental Protection Measures

- (a) ~~Any person carrying out earthworks shall:~~
- (i) ~~Implement erosion and sediment control measures to avoid soil erosion or any sediment entering any water body. Refer to the Queenstown Lakes District earthworks guideline to assist in the achievement of this standard.~~
- (ii) ~~Ensure that any material associated with the earthworks activity is not positioned on a site within 7m of a water body or where it may dam or divert or contaminate water.~~
- (b) ~~Where vegetation clearance associated with earthworks results in areas of exposed soil, these areas shall be revegetated within 12 months of the completion of the operations.~~

~~(e) Cut or fill shall not expose the groundwater aquifer (water bearing gravels) causing ponding or causing artificial drainage of the aquifer.~~

#### ~~4. Protection of Archaeological sites and sites of cultural heritage~~

~~— The activity shall not modify, damage or destroy any Waahi Tapu, Waahi Taoka or archaeological sites that are identified in Appendix 3 of the District Plan, or in the Kai Tahu ki Otago Natural Resource Management Plan.~~

~~(a) Where any earthworks are undertaken in areas identified as Ngai Tahu Statutory Acknowledgement Areas the earthworks shall not exceed 50m<sup>2</sup> in area or 20m<sup>3</sup> in volume, in any one consecutive 12 month period.~~

...

### 5.4.2.3 Assessment Matters General

#### xxvii Deleted Earthworks

##### ~~1. Environmental Protection Measures:~~

~~(a) Whether and to what extent proposed sediment/erosion control techniques are adequate to ensure that sediment remains on site.~~

~~(b) Whether the earthworks will adversely affect stormwater and overland flows, and create adverse effects off site.~~

~~(c) Whether earthworks will be completed within a short period, reducing the duration of any adverse effects.~~

~~(d) Where earthworks are proposed on a site gradient > 18.5 degrees (1 in 3), whether a geotechnical report has been supplied to assess the stability of the earthworks.~~

~~(e) Whether measures to minimise dust emissions are proposed and to what extent these mitigation measures are effective.~~

~~(f) Whether and to what extent any groundwater is likely to be affected, and if any mitigation measures are proposed to address likely effects.~~

~~(g) Whether and to what extent earthworks are necessary in order to undertake flood protection works recognising the long term benefits of effective flood mitigation measures on the surrounding environment.~~

##### ~~2. Effects on landscape and visual amenity values, in particular Outstanding Natural Features and Outstanding Natural Landscapes:~~

~~(a) Whether and to what extent the scale and location of any cut and fill will adversely affect:~~

~~• the visual quality and amenity values of the landscape;~~

~~• the natural landform of any ridgeline or visually prominent areas;~~

~~• the visual amenity values of surrounding sites.~~

~~(b) Whether the earthworks will take into account the sensitivity of the landscape.~~

~~(c) The potential for cumulative effects on the natural form of existing landscapes.~~

~~(d) The proposed rehabilitation of the site and to what extent re-vegetation will mitigate any adverse effects.~~

~~(e) Whether and to what extent the earthworks create an area that is inconsistent with the character of the surrounding landscape.~~

~~(f) Whether the location and/or design of any new tracking can be modified in order to decrease the effects on the stability, visual quality and amenity values of the landscape.~~

### 3. Effects on adjacent sites

~~(a) Whether the earthworks will adversely affect the stability of neighbouring sites~~

~~(b) Whether the earthworks will change surface drainage, and whether the adjoining land will be at a higher risk of inundation, or a raised water table.~~

~~(c) Whether cut, fill and retaining are done in accordance with engineering standards.~~

### 4. General Amenity Values

~~(a) Whether the removal of soil to or from the site will affect the surrounding roads and neighbourhood through the deposition of sediment, particularly where access to the site is gained through residential areas.~~

~~(b) Whether the activity will generate noise, vibration and dust effects, which could detract from the amenity values of the surrounding area.~~

~~(c) Whether natural ground levels will be altered.~~

### 5. Impacts on sites of cultural heritage value:

~~(a) The extent to which the activity modifies or damages Waahi Tapu or Waahi Taoka, and whether tangata whenua have been notified.~~

~~(b) The extent to which the activity affects Ngai Tahu's cultural and traditional association with the Statutory Acknowledgment Area.~~

~~(c) Whether the subject land contains a recorded archaeological site, and whether the NZ Historic Places Trust has been notified.~~

### 6. Activities

~~(a) Whether the proposed tracking or other earthworks is necessary or desirable for the ongoing and reasonable maintenance and use of the land.~~

~~(b) Whether the proposed tracking or other earthworks are necessary or desirable to achieve a reasonable or appropriate use of the land for the proposed activity.~~

...

## 5.7 Gibbston Character Zone - Rules

...

### 5.7.2 District Rules

Attention is drawn to the following District Wide Rules, which may apply in addition to any relevant Zone Rules. If the provisions of the District Wide Rules are not met then consent will be required in respect of that matter:

- (i) Heritage Protection - Refer Part [Section 13](#)
- (ii) Transport - Refer Part [Section 14](#)
- (iii) Subdivision, Development and Financial Contributions - Refer Part [Section 15](#)
- (iv) Hazardous Substances - Refer Part [Section 16](#)
- (v) Utilities - Refer Part [Section 17](#)
- (vi) Signs - Refer Part [Section 18](#)
- (vii) Relocated Buildings and Temporary Activities - Refer Part [Section 19](#)
- (viii) Earthworks - Refer Section 22

...

#### 5.7.5.1 Site Standards

...

#### iv Deleted Earthworks

- ~~(a) No cut or batter (other than routine repair and maintenance of operational tracks and flood protection works) shall exceed 2m in vertical height, except that such cut or batter shall not exceed 3m in vertical height for more than 10% of its length.~~
- ~~(b) All cuts and batters shall be laid back such that their angle from the horizontal is no more than 65 degrees.~~
- ~~(c) All pervious surfaces are to be vegetated.~~

- ~~———— (d) No earthworks (other than the formation of tracks and earthworks within Ski Area Sub-Zones) shall exceed 1000 m<sup>3</sup> in total volume or 2500 m<sup>2</sup> in total area.~~

### 3. Amend Rule 6.2.2 Queenstown Airport Mixed-Use Zone as follows:

## 6.2 Queenstown Airport Mixed-Use Zone Rules

...

### 6.2.2 District Rules

Attention is drawn to the following District Wide Rules, which may apply in addition to any relevant Zone Rules. If the provisions of the District Wide Rules are not met then consent will be required in respect of that matter:

- (i) Transport - Refer Part [Section 14](#)
- (ii) Subdivision, Development and Financial Contributions - Refer Part [Section 15](#)
- (iii) Hazardous Substances - Refer Part [Section 16](#)
- (iv) Utilities - Refer Part [Section 17](#)
- (v) Signs - Refer Part [Section 18](#)
- (vi) Relocated Buildings and Temporary Activities - Refer Part [Section 19](#)
- (vii) Earthworks - Refer Section 22

...

### 4. Delete the Earthworks rules from Section 7 Residential Areas as follows:

## 7.5 Low Density and High Density Residential Zone Rules

...

### 7.5.2 District Rules

Attention is drawn to the following District Wide Rules, which may apply in addition to any relevant Zone Rules. If the provisions of the District Wide Rules are not met then consent will be required in respect of that matter:

- (i) Heritage Protection - Refer Part Section 13
- (ii) Transport - Refer Part Section 14
- (iii) Subdivision, Development and Financial Contributions - Refer Part Section 15
- (iv) Hazardous Substances - Refer Part Section 16
- (v) Utilities - Refer Part Section 17
- (vi) Signs - Refer Part Section 18
- (vii) Relocated Buildings and Temporary Activities - Refer Part Section 19
- (viii) Earthworks - Refer Section 22

## 7.5.5.2 Site Standards - Residential Activities and Visitor Accommodation

### xvi Deleted Earthworks

The following limitations apply to all earthworks (as defined in this Plan), except for earthworks associated with a subdivision that has both resource consent and engineering approval.

- (a) Earthworks
  - (i) The total volume of earthworks does not exceed ~~100m<sup>3</sup>~~ per site (within a 12 month period). For clarification of "volume", see interpretative diagram 5.
  - (ii) The maximum area of bare soil exposed from any earthworks where the average depth is greater than 0.5m shall not exceed ~~200m<sup>2</sup>~~ in area within that site (within a 12 month period).

~~(iii) Where any earthworks are undertaken within 7m of a Water body the total volume shall not exceed 20m<sup>3</sup> (notwithstanding provision 17.2.2).~~

~~(iv) No earthworks shall:~~

- ~~a. expose any groundwater aquifer;~~
- ~~b. cause artificial drainage of any groundwater aquifer;~~
- ~~c. cause temporary ponding of any surface water.~~

~~(b) Height of cut and fill and slope~~

~~(i) The vertical height of any cut or fill shall not be greater than the distance of the top of the cut or the toe of the fill from the site boundary (see interpretative diagram 6). Except where the cut or fill is retained, in which case it may be located up to the boundary, if less or equal to 0.5m in height.~~

~~(ii) The maximum height of any cut shall not exceed 2.4 metres.~~

~~(iii) The maximum height of any fill shall not exceed 2 metres.~~

~~(c) Environmental Protection Measures~~

~~(i) Where vegetation clearance associated with earthworks results in areas of exposed soil, these areas shall be revegetated within 12 months of the completion of the operations.~~

~~(ii) Any person carrying out earthworks shall:~~

- ~~a. Implement erosion and sediment control measures to avoid soil erosion or any sediment entering any water body. Refer to the Queenstown Lakes District earthworks guideline to assist in the achievement of this standard.~~
- ~~b. Ensure that any material associated with the earthworks activity is not positioned on a site within~~

~~7m of a water body or where it may dam or divert or contaminate water.~~

~~c. Implement appropriate dust control measures to avoid nuisance effects of dust beyond the boundary of the site. Refer to the Queenstown Lakes District earthworks guideline to assist in the achievement of this standard.~~

~~(d) Protection of archaeological sites and sites of cultural heritage~~

~~(i) The activity shall not modify, damage or destroy any Waahi Tapu, Waahi Taoka or archaeological sites that are identified in Appendix 3 of the Plan, or in the Kai Tahu ki Otago Natural Resource Management Plan.~~

~~(ii) The activity shall not affect Ngai Tahu's cultural, spiritual and traditional association with land adjacent to or within Statutory Acknowledgment Areas.~~

...

## 7.5.6.2 Site Standards - Non-Residential Activities (other than Visitor Accommodation in the High Density Residential Zone).

...

### xi Deleted Earthworks

~~The following limitations apply to all earthworks (as defined in this Plan), except for earthworks associated with a subdivision that has both resource consent and engineering approval.~~

~~(a) Earthworks~~

~~(i) The total volume of earthworks does not exceed **100m<sup>3</sup>** per site (within a 12 month period). For clarification of "volume", see interpretative diagram 5.~~

~~(ii) The maximum area of bare soil exposed from any earthworks where the average depth is greater than 0.5m shall not exceed **200m<sup>2</sup>** in area within that site (within a 12 month period).~~

~~(iii) Where any earthworks are undertaken within 7m of a water body the total volume shall not exceed **20m<sup>3</sup>** (notwithstanding provision 17.2.2).~~

~~(iv) No earthworks shall:~~

- ~~a. expose any groundwater aquifer;~~
- ~~b. cause artificial drainage of any groundwater aquifer;~~
- ~~c. cause temporary ponding of any surface water.~~

~~(b) Height of cut and fill and slope~~

~~(i) The vertical height of any cut or fill shall not be greater than the distance of the top of the cut or the toe of the fill from the site boundary (see interpretative diagram 6). Except where the cut or fill is retained, in which case it may be located up to the boundary, if less or equal to 0.5m in height.~~

~~(ii) The maximum height of any cut shall not exceed 2.4 metres.~~

~~(iii) The maximum height of any fill shall not exceed 2 metres.~~

~~(c) Environmental Protection Measures~~

~~(i) Where vegetation clearance associated with earthworks results in areas of exposed soil, these areas shall be revegetated within 12 months of the completion of the operations.~~

~~(ii) Any person carrying out earthworks shall:~~

- ~~a. Implement erosion and sediment control measures to avoid soil erosion or any sediment entering any water body. Refer to the Queenstown Lakes District earthworks guideline to assist in the achievement of this standard.~~

- ~~\_\_\_\_\_ b. \_\_\_\_\_ Ensure that any material associated with the earthworks activity is not positioned on a site within 7m of a water body or where it may dam or divert or contaminate water.~~
- ~~\_\_\_\_\_ c. \_\_\_\_\_ Implement appropriate dust control measures to avoid nuisance effects of dust beyond the boundary of the site. Refer to the Queenstown Lakes District earthworks guideline to assist in the achievement of this standard. \_\_\_\_\_~~
- ~~\_\_\_\_\_ (d) \_\_\_\_\_ Protection of Archaeological sites and sites of cultural heritage~~
  - ~~\_\_\_\_\_ (i) \_\_\_\_\_ The activity shall not modify, damage or destroy any Waahi Tapu, Waahi Taoka or archaeological sites that are identified in Appendix 3 of the Plan, or in the Kai Tahu ki Otago Natural Resource Management Plan.~~
  - ~~\_\_\_\_\_ (ii) \_\_\_\_\_ The activity shall not affect Ngai Tahu's cultural, spiritual and traditional association with land adjacent to or within Statutory Acknowledgment Areas.~~

...

### 7.6.5.1 Site Standards - Residential Activities

...

#### vi Deleted Earthworks

The following limitations apply to all earthworks (as defined in this Plan), except for earthworks associated with a subdivision that has both resource consent and engineering approval.

- ~~\_\_\_\_\_ (a) \_\_\_\_\_ Earthworks~~
  - ~~\_\_\_\_\_ (i) \_\_\_\_\_ The total volume of earthworks does not exceed **100m<sup>3</sup>** per site (within a 12 month period). For clarification of "volume", see interpretative diagram 5.~~

- ~~\_\_\_\_\_ (ii) \_\_\_\_\_ The maximum area of bare soil exposed from any earthworks where the average depth is greater than 0.5m shall not exceed **200m<sup>2</sup>** in area within that site (within a 12 month period).~~
- ~~\_\_\_\_\_ (iii) \_\_\_\_\_ Where any earthworks are undertaken within 7m of a water body the total volume shall not exceed **20m<sup>3</sup>** (notwithstanding provision 17.2.2).~~
- ~~\_\_\_\_\_ (iv) \_\_\_\_\_ No earthworks shall:~~
  - ~~\_\_\_\_\_ a. \_\_\_\_\_ expose any groundwater aquifer;~~
  - ~~\_\_\_\_\_ b. \_\_\_\_\_ cause artificial drainage of any groundwater aquifer;~~
  - ~~\_\_\_\_\_ c. \_\_\_\_\_ cause temporary ponding of any surface water.~~
- ~~\_\_\_\_\_ (b) \_\_\_\_\_ Height of cut and fill and slope~~
  - ~~\_\_\_\_\_ (i) \_\_\_\_\_ The vertical height of any cut or fill shall not be greater than the distance of the top of the cut or the toe of the fill from the site boundary (see interpretative diagram 6). Except where the cut or fill is retained, in which case it may be located up to the boundary, if less or equal to 0.5m in height.~~
  - ~~\_\_\_\_\_ (ii) \_\_\_\_\_ The maximum height of any cut shall not exceed 2.4 metres.~~
  - ~~\_\_\_\_\_ (iii) \_\_\_\_\_ The maximum height of any fill shall not exceed 2 metres.~~
- ~~\_\_\_\_\_ (c) \_\_\_\_\_ Environmental Protection Measures~~
  - ~~\_\_\_\_\_ (i) \_\_\_\_\_ Where vegetation clearance associated with earthworks results in areas of exposed soil, these areas shall be revegetated within 12 months of the completion of the operations.~~
  - ~~\_\_\_\_\_ (ii) \_\_\_\_\_ Any person carrying out earthworks shall:~~
    - ~~\_\_\_\_\_ a. \_\_\_\_\_ Implement erosion and sediment control measures to avoid soil erosion or any sediment entering any water body. Refer to the Queenstown Lakes District~~

~~earthworks guideline to assist in the achievement of this standard.~~

- ~~b. Ensure that any material associated with the earthworks activity is not positioned on a site within 7m of a water body or where it may dam or divert or contaminate water.~~
  - ~~c. Implement appropriate dust control measures to avoid nuisance effects of dust beyond the boundary of the site. Refer to the Queenstown Lakes District earthworks guideline to assist in the achievement of this standard.~~
  - ~~(d) Protection of Archaeological sites and site of cultural heritage~~
    - ~~(i) The activity shall not modify, damage or destroy any Waahi Tapu, Waahi Taoka or archaeological sites that are identified in Appendix 3 of the Plan, or in the Kai Tahu ki Otago Natural Resource Management Plan.~~
    - ~~(ii) The activity shall not affect Ngai Tahu's cultural, spiritual and traditional association with land adjacent to or within Statutory Acknowledgment Areas.~~
- ...

### 7.6.6.1 Site Standards - Non-Residential Activities

...

#### v Deleted Earthworks

The following limitations apply to all earthworks (as defined in this Plan), except for earthworks associated with a subdivision that has both resource consent and engineering approval:

- ~~(a) Volume of earthworks~~
  - ~~(i) The total volume of earthworks does not exceed 100m<sup>3</sup> per site.~~

- ~~(ii) The maximum area of bare soil exposed from any earthworks where the average depth is greater than 0.5m shall not exceed 200m<sup>3</sup> in the area within that site.~~

#### ~~(b) Height of cut and fill~~

- ~~(i) The height of any cut or fill shall not be greater than the distance of the cut or fill from the site boundary. Except where the cut and fill is retained, in which case it may be located up to the boundary, if less than or equal to 0.5m in height.~~

- ~~(ii) The maximum height of any cut shall not exceed 2.4 metres.~~

- ~~(iii) The maximum height of any fill shall not exceed 2 metres.~~

#### ~~(c) Measures to control sediment~~

- ~~(i) No contamination, including siltation, of any water body shall occur.~~

- ~~(ii) Where vegetation clearance associated with earthworks results in areas of exposed soil, these areas shall be revegetated within 12 months of the completion of the operations.~~

- ~~(iii) No vegetation, soil, earth, rock or any other debris shall be allowed to enter or shall be positioned where it may dam or divert any river or stream or adversely affect instream habitats.~~

- ~~(iv) Measures to minimise dust emissions shall be adopted.~~

#### ~~(d) Protection of sites of cultural heritage value~~

- ~~(i) The activity shall not interfere with or destroy any Waahi Tapu, Waahi Taoka or archaeological sites that are identified in Appendix 3 of the Plan, or in the Kai Tahu ki Otago Natural Resource Management Plan.~~

- ~~(ii) The activity shall not effect Ngai Tahu's cultural, spiritual and traditional association with land adjacent to or within a Statutory Acknowledgement Area.~~

...

## 7.7.2 Assessment Matters

...

### xxxii Deleted Earthworks

~~In the High Density Residential Zone notification may be required in situations involving special circumstances with regard to any aspect of earthworks to include, but not limited to, work schedules, blasting or extensive drilling, unstable or suspect geological conditions, substantial subsurface water, safety and traffic management.~~

~~In all zones covered by this section of the District Plan,~~

#### ~~(a) Environmental Protection Measures~~

- ~~(i) Whether and to what extent proposed sediment/erosion control techniques are adequate to ensure that sediment remains on site.~~
- ~~(ii) Whether the earthworks will adversely affect stormwater and overland flows, and create adverse effects off site.~~
- ~~(iii) Whether earthworks will be completed within a short period, reducing the duration of any adverse effects.~~
- ~~(iv) Where earthworks are proposed on a site with a gradient >18.5 degrees (1 in 3), whether a geotechnical report has been supplied to assess the stability of the earthworks.~~
- ~~(vi) Whether appropriate measures to control dust emissions are proposed.~~
- ~~(vii) Whether any groundwater is likely to be affected, and any mitigation measures are proposed to deal with any effects. NB: Any activity~~

~~affecting groundwater may require resource consent from the Otago Regional Council.~~

5. ~~Delete the Earthworks rules from Section 8 Rural Living Areas as follows:~~

## 8.2 Rural Living Areas Rules

...

### 8.2.1 District Rules

Attention is drawn to the following District Wide Rules, which may apply in addition to any relevant Zone Rules. If the provisions of the District Wide Rules are not met then consent will be required in respect of that matter:

- |                                                            |                                |
|------------------------------------------------------------|--------------------------------|
| (i) Heritage Protection                                    | - Refer Part <u>Section 13</u> |
| (ii) Transport                                             | - Refer Part <u>Section 14</u> |
| (iii) Subdivision, Development and Financial Contributions | - Refer Part <u>Section 15</u> |
| (iv) Hazardous Substances                                  | - Refer Part <u>Section 16</u> |
| (v) Utilities                                              | - Refer Part <u>Section 17</u> |
| (vi) Signs                                                 | - Refer Part <u>Section 18</u> |
| (vii) Relocated Buildings and Temporary Activities         | - Refer Part <u>Section 19</u> |
| (viii) Earthworks                                          | - Refer <u>Section 22</u>      |

...

#### 8.2.4.1 Site Standards

...

#### x Deleted Earthworks

~~The following limitations apply to all earthworks (as defined in this Plan), except for earthworks associated with a subdivision that has both resource consent and engineering approval.~~

- ~~1. Earthworks~~

- (a) ~~The total volume of earthworks does not exceed 100m<sup>3</sup> per site (within a 12 month period). For clarification of "volume", see interpretative diagram 5.~~
- (b) ~~The maximum area of bare soil exposed from any earthworks where the average depth is greater than 0.5m shall not exceed 200m<sup>2</sup> in area within that site (within a 12 month period).~~
- (c) ~~Where any earthworks are undertaken within 7m of a Water body the total volume shall not exceed 20m<sup>3</sup> (notwithstanding provision 17.2.2).~~
- (d) ~~No earthworks shall:~~
- ~~(i) expose any groundwater aquifer;~~
  - ~~(ii) cause artificial drainage of any groundwater aquifer,~~
  - ~~(iii) cause temporary ponding of any surface water.~~

## ~~2. Height of cut and fill and slope~~

- ~~(a) The vertical height of any cut or fill shall not be greater than the distance of the top of the cut or the toe of the fill from the site boundary (see interpretative diagram 6). Except where the cut or fill is retained in which case it may be located up to the boundary, if less or equal to 0.5m in height.~~
- ~~(b) The maximum height of any cut shall not exceed 2.4 metres.~~
- ~~(c) The maximum height of any fill shall not exceed 2 metres.~~

## ~~3. Environmental Protection Measures~~

- ~~(a) Where vegetation clearance associated with earthworks results in areas of exposed soil, these areas shall be revegetated within 12 months of the completion of the operations.~~
- ~~(b) Any person carrying out earthworks shall:~~

- ~~(i) Implement erosion and sediment control measures to avoid soil erosion or any sediment entering any water body. Refer to the Queenstown Lakes District earthworks guideline to assist in the achievement of this standard.~~
- ~~(ii) Ensure that any material associated with the earthworks activity is not positioned on a site within 7m of a water body or where it may dam or divert or contaminate water.~~
- ~~(c) Any person carrying out earthworks shall implement appropriate dust control measures to avoid nuisance effects of dust beyond the boundary of the site. Refer to the Queenstown Lakes District earthworks guideline to assist in the achievement of this standard.~~

## ~~4. Protection of Archaeological sites and sites of cultural heritage~~

- ~~(a) The activity shall not modify, damage or destroy any Waahi Tapu, Waahi Taoka or archaeological sites that are identified in Appendix 3 of the Plan, or in the Kai Tahu ki Otago Natural Resource Management Plan.~~
- ~~(b) The activity shall not affect Ngai Tahu's cultural, spiritual and traditional association with land adjacent to or within Statutory Acknowledgment Areas.~~

...

### 8.3.2 Assessment Matters

...

#### xiv Deleted Earthworks

##### 1. Environmental Protection Measures

- ~~(a) Whether and to what extent proposed sediment/erosion control techniques are adequate to ensure that sediment remains on-site.~~

- ~~(b) Whether the earthworks will adversely affect stormwater and overland flows, and create adverse effects off-site.~~
- ~~(c) Whether earthworks will be completed within a short period, reducing the duration of any adverse effects.~~
- ~~(d) Where earthworks are proposed on a site with a gradient >18.5 degrees (1 in 3), whether a geotechnical report has been supplied to assess the stability of the earthworks.~~
- ~~(e) Whether appropriate measures to control dust emissions are proposed.~~
- ~~(f) Whether any groundwater is likely to be affected, and any mitigation measures are proposed to deal with any effects. NB: Any activity affecting groundwater may require resource consent from the Otago Regional Council.~~

## ~~2. Effects on landscape and visual amenity values~~

- ~~(a) Whether the scale and location of any cut and fill will adversely affect:
 
  - ~~the visual quality and amenity values of the landscape;~~
  - ~~the natural landform of any ridgeline or visually prominent areas;~~
  - ~~the visual amenity values of surrounding sites.~~~~
- ~~(b) Whether the earthworks will take into account the sensitivity of the landscape.~~
- ~~(c) The potential for cumulative effects on the natural form of existing landscapes.~~
- ~~(d) The proposed rehabilitation of the site.~~

## ~~3. Effects on adjacent site:~~

- ~~(a) Whether the earthworks will adversely affect the stability of neighbouring sites.~~
- ~~(b) Whether the earthworks will change surface drainage, and whether the adjoining land will be at a higher risk of inundation, or a raised water table.~~
- ~~(c) Whether cut, fill and retaining are done in accordance with engineering standards.~~

## ~~6. Delete the Earthworks rules from Section 9 Townships as follows:~~

~~...~~

## ~~9.2 Townships Zone Rules~~

~~...~~

### ~~9.2.2 District Rules~~

Attention is drawn to the following District Wide Rules, which may apply in addition to any relevant Zone Rules. If the provisions of the District Wide Rules are not met then consent will be required in respect of that matter:

- |                                                            |                                |
|------------------------------------------------------------|--------------------------------|
| (i) Heritage Protection                                    | - Refer Part <u>Section 13</u> |
| (ii) Transport                                             | - Refer Part <u>Section 14</u> |
| (iii) Subdivision, Development and Financial Contributions | - Refer Part <u>Section 15</u> |
| (iv) Hazardous Substances                                  | - Refer Part <u>Section 16</u> |
| (v) Utilities                                              | - Refer Part <u>Section 17</u> |
| (vi) Signs                                                 | - Refer Part <u>Section 18</u> |
| (vii) Relocated Buildings and Temporary Activities         | - Refer Part <u>Section 19</u> |
| <u>(viii) Earthworks</u>                                   | - Refer <u>Section 22</u>      |

~~...~~

### ~~9.2.5.1 Site Standards~~

~~...~~

## xii Deleted Earthworks

The following limitations apply to all earthworks (as defined in this Plan), except for earthworks associated with a subdivision that has both resource consent and engineering approval.

### 1. Earthworks

- (a) The total volume of earthworks does not exceed **100m<sup>3</sup>** per site (within a 12 month period). For clarification of "volume", see interpretative diagram 5.
- (b) The maximum area of bare soil exposed from any earthworks where the average depth is greater than 0.5m shall not exceed **200m<sup>2</sup>** in area within that site (within a 12 month period).
- (c) Where any earthworks are undertaken within 7m of a Water body the total volume shall not exceed **20m<sup>3</sup>** (notwithstanding provision 17.2.2).
- (d) No earthworks shall:
  - (i) expose any groundwater aquifer;
  - (ii) cause artificial drainage of any groundwater aquifer;
  - (iii) cause temporary ponding of any surface water.

### 2. Height of cut and fill and slope

- (a) The vertical height of any cut or fill shall not be greater than the distance of the top of the cut or the toe of the fill from the site boundary (see interpretative diagram 6). Except where the cut or fill is retained, in which case it may be located up to the boundary, if less or equal to 0.5m in height.
- (b) The maximum height of any cut shall not exceed 2.4 metres.
- (c) The maximum height of any fill shall not exceed 2 metres.

### 3. Environmental Protection Measures

- (a) Where vegetation clearance associated with earthworks results in areas of exposed soil, these areas shall be revegetated within 12 months of the completion of the operations.
- (b) Any person carrying out earthworks shall:
  - (i) Implement erosion and sediment control measures to avoid soil erosion or any sediment entering any water body. Refer to the Queenstown Lakes District earthworks guideline to assist in the achievement of this standard.
  - (ii) Ensure that any material associated with the earthworks activity is not positioned on a site within 7m of a waterbody or where it may dam or divert or contaminate water.
- (c) Any person carrying out earthworks shall implement appropriate dust control measures to avoid nuisance effects of dust beyond the boundary of the site. Refer to the Queenstown Lakes District earthworks guideline to assist in the achievement of this standard.

### 4. Protection of Archaeological sites and sites of cultural heritage

- (a) The activity shall not modify, damage or destroy any Waahi Tapu, Waahi Taoka or archaeological sites that are identified in Appendix 3 of the Plan, or in the Kai Tahu ki Otago Natural Resource Management Plan.
- (b) The activity shall not affect Ngai Tahu's cultural, spiritual and traditional association with land adjacent to or within Statutory Acknowledgment Areas.

...

## 9.3.2 Assessment Matters

...

## xviii Deleted Earthworks

### 1. Environmental Protection Measures

- (a) The extent proposed sediment/erosion control techniques are adequate to ensure that sediment remains on-site.
- (b) Whether the earthworks will adversely affect stormwater and overland flows, and create adverse effects off-site.
- (c) Whether earthworks will be completed within a short period, reducing the duration of any adverse effects.
- (d) Where earthworks are proposed on a site with a gradient  $>18.5$  degrees (1 in 3), whether a geotechnical report has been supplied to assess the stability of the earthworks.
- (e) Whether appropriate measures to control dust emissions are proposed.
- (f) Whether any groundwater is likely to be affected, and any mitigation measures are proposed to deal with any effects. NB: Any activity affecting groundwater may require resource consent from the Otago Regional Council.

### 2. Effects on landscape and visual amenity values

- (a) Whether the scale and location of any cut and fill will adversely affect:
  - the visual quality and amenity values of the landscape;
  - the natural landform of any ridgeline or visually prominent areas;
  - the visual amenity values of surrounding sites.
- (b) Whether the earthworks will take into account the sensitivity of the landscape.

- (c) The potential for cumulative effects on the natural form of existing landscapes.
- (d) The proposed rehabilitation of the site.

### 3. Effects on adjacent sites:

- (a) Whether the earthworks will adversely affect the stability of neighbouring sites.
- (b) Whether the earthworks will change surface drainage, and whether the adjoining land will be at a higher risk of inundation, or a raised water table.
- (c) Whether cut, fill and retaining are done in accordance with engineering standards.

### 4. General amenity values

- (a) Whether the removal of soil to or from the site will affect the surrounding roads and neighbourhood through the deposition of sediment, particularly where access to the site is gained through residential areas.
- (b) Whether the activity will generate noise, vibration and dust effects, which could detract from the amenity values of the surrounding area.
- (c) Whether natural ground levels will be altered.

### 5. Impacts on sites of cultural heritage value

- (a) Whether the subject land contains Waahi Tapu or Waahi Taoka, or is adjacent to a Statutory Acknowledgment Area, and whether tangata whenua have been notified.

- (b) ~~Whether the subject land contains a recorded archaeological site, and whether the NZ Historic Places Trust has been notified.~~

**7. Delete the Earthworks rules from Section 10 Town Centres as follows:**

## 10.6 Queenstown Town Centre Zone Rules

...

### 10.6.2 District Rules

Attention is drawn to the following District Wide Rules, which may apply in addition to any relevant Zone Rules. If the provisions of the District Wide Rules are not met then consent will be required in respect of that matter:

- (i) Heritage Protection - Refer Part **Section 13**
- (ii) Transport - Refer Part **Section 14**
- (iii) Subdivision, Development and Financial Contributions - Refer Part **Section 15**
- (iv) Hazardous Substances - Refer Part **Section 16**
- (v) Utilities - Refer Part **Section 17**
- (vi) Signs - Refer Part **Section 18**
- (vii) Relocated Buildings and Temporary Activities - Refer Part **Section 19**
- (viii) Earthworks - Refer **Section 22**

...

#### 10.6.5.1 Site Standards

...

**x Deleted Earthworks**

~~The following limitations apply to all earthworks (as defined in this Plan), except for earthworks associated with a subdivision that has both resource consent and engineering approval.~~

1. ~~Earthworks~~

- ~~(a) The total volume of earthworks does not exceed **100m<sup>3</sup>** per site (within a 12 month period). For clarification of "volume", see interpretative diagram 5.~~
- ~~(b) The maximum area of bare soil exposed from any earthworks where the average depth is greater than 0.5m shall not exceed **200m<sup>2</sup>** in area within that site (within a 12 month period).~~
- ~~(c) Where any earthworks are undertaken within 7m of a Water body the total volume shall not exceed **20m<sup>3</sup>** (notwithstanding provision 17.2.2).~~
- ~~(d) No earthworks shall:
 
  - ~~(i) expose any groundwater aquifer;~~
  - ~~(ii) cause artificial drainage of any groundwater aquifer;~~
  - ~~(iii) cause temporary ponding of any surface water.~~~~

2. ~~Height of cut and fill and slope~~

- ~~(a) The vertical height of any cut or fill shall not be greater than the distance of the top of the cut or the toe of the fill from the site boundary (see interpretative diagram 6). Except where the cut or fill is retained, in which case it may be located up to the boundary, if less or equal to 0.5m in height.~~
- ~~(b) The maximum height of any cut shall not exceed 2.4 metres.~~
- ~~(c) The maximum height of any fill shall not exceed 2 metres.~~

3. ~~Environmental Protection Measures~~

- ~~(a) Where vegetation clearance associated with earthworks results in areas of exposed soil, these areas shall be revegetated within 12 months of the completion of the operations.~~
- ~~(b) Any person carrying out earthworks shall:~~

~~(i) Implement erosion and sediment control measures to avoid soil erosion or any sediment entering any water body. Refer to the Queenstown Lakes District earthworks guideline to assist in the achievement of this standard.~~

~~(ii) Ensure that any material associated with the earthworks activity is not positioned on a site within 7m of a water body or where it may dam or divert or contaminate water.~~

~~(c) Any person carrying out earthworks shall implement appropriate dust control measures to avoid nuisance effects of dust beyond the boundary of the site. Refer to the Queenstown Lakes District earthworks guideline to assist in the achievement of this standard.~~

#### 4. Protection of Archaeological sites and sites of cultural heritage

~~(a) The activity shall not modify, damage or destroy any Waahi Tapu, Waahi Taoka or archaeological sites that are identified in Appendix 3 of the Plan, or in the Kai Tahu ki Otago Natural Resource Management Plan.~~

~~(b) The activity shall not affect Ngai Tahu's cultural, spiritual and traditional association with land adjacent to or within Statutory Acknowledgment Areas.~~

...

### 10.7.5.1 Site Standards

...

#### x Deleted Earthworks

The following limitations apply to all earthworks (as defined in this Plan), except for earthworks associated with a subdivision that has both resource consent and engineering approval.

#### 1. Earthworks

~~(a) The total volume of earthworks does not exceed 100m<sup>3</sup> per site (within a 12 month period). For clarification of "volume", see interpretative diagram 5.~~

~~(b) The maximum area of bare soil exposed from any earthworks where the average depth is greater than 0.5m shall not exceed 200m<sup>2</sup> in area within that site (within a 12 month period).~~

~~(c) Where any earthworks are undertaken within 7m of a Water body the total volume shall not exceed 20m<sup>3</sup> (notwithstanding provision 17.2.2).~~

~~(d) No earthworks shall:~~

~~(i) expose any groundwater aquifer;~~

~~(ii) cause artificial drainage of any groundwater aquifer;~~

~~(iii) cause temporary ponding of any surface water.~~

#### 2. Height of cut and fill and slope

~~(a) The vertical height of any cut or fill shall not be greater than the distance of the top of the cut or the toe of the fill from the site boundary (see interpretative diagram 6). Except where the cut or fill is retained, in which case it may be located up to the boundary, if less or equal to 0.5m in height.~~

~~(b) The maximum height of any cut shall not exceed 2.4 metres.~~

~~(c) The maximum height of any fill shall not exceed 2 metres.~~

#### 3. Environmental Protection Measures

~~(a) Where vegetation clearance associated with earthworks results in areas of exposed soil, these areas shall be revegetated within 12 months of the completion of the operations.~~

~~(b) Any person carrying out earthworks shall:~~

- (i) Implement erosion and sediment control measures to avoid soil erosion or any sediment entering any water body. Refer to the Queenstown Lakes District earthworks guideline to assist in the achievement of this standard.
- (ii) Ensure that any material associated with the earthworks activity is not positioned on a site within 7m of a water body or where it may dam or divert or contaminate water.

(c) Any person carrying out earthworks shall implement appropriate dust control measures to avoid nuisance effects of dust beyond the boundary of the site. Refer to the Queenstown Lakes District earthworks guideline to assist in the achievement of this standard.

#### 4. Protection of Archaeological sites and sites of cultural heritage

- (a) The activity shall not modify, damage or destroy any Waahi Tapu, Waahi Taoka or archaeological sites that are identified in Appendix 3 of the Plan, or in the Kai Tahu ki Otago Natural Resource Management Plan.
- (b) The activity shall not affect Ngai Tahu's cultural, spiritual and traditional association with land adjacent to or within Statutory Acknowledgment Areas.

...

#### 10.8.5.1 Site Standards

...

#### ix Deleted Earthworks

The following limitations apply to all earthworks (as defined in this Plan), except for earthworks associated with a subdivision that has both resource consent and engineering approval.

#### 1. Earthworks

- (a) The total volume of earthworks does not exceed **100m<sup>3</sup>** per site (within a 12 month period). For clarification of "volume", see interpretative diagram 5.
- (b) The maximum area of bare soil exposed from any earthworks where the average depth is greater than 0.5m shall not exceed **200m<sup>2</sup>** in area within that site (within a 12 month period).
- (c) Where any earthworks are undertaken within 7m of a Water body the total volume shall not exceed **20m<sup>3</sup>** (notwithstanding provision 17.2.2).
- (d) No earthworks shall:
  - (i) expose any groundwater aquifer;
  - (ii) cause artificial drainage of any groundwater aquifer;
  - (iii) cause temporary ponding of any surface water.

#### 2. Height of cut and fill and slope

- (a) The vertical height of any cut or fill shall not be greater than the distance of the top of the cut or the toe of the fill from the site boundary (see interpretative diagram 6). Except where the cut or fill is retained, in which case it may be located up to the boundary, if less or equal to 0.5m in height.
- (b) The maximum height of any cut shall not exceed 2.4 metres.
- (c) The maximum height of any fill shall not exceed 2 metres.

#### 3. Environmental Protection Measures

- (a) Where vegetation clearance associated with earthworks results in areas of exposed soil, these areas shall be revegetated within 12 months of the completion of the operations.

- (b) Any person carrying out earthworks shall:
  - (i) ~~Implement erosion and sediment control measures to avoid soil erosion or any sediment entering any water body. Refer to the Queenstown Lakes District earthworks guideline to assist in the achievement of this standard.~~
  - (ii) ~~Ensure that any material associated with the earthworks activity is not positioned on a site within 7m of a water body or where it may dam or divert or contaminate water.~~
- (c) ~~Any person carrying out earthworks shall implement appropriate dust control measures to avoid nuisance effects of dust beyond the boundary of the site. Refer to the Queenstown Lakes District earthworks guideline to assist in the achievement of this standard.~~

#### 4. ~~Protection of Archaeological sites and sites of cultural heritage~~

- (a) ~~The activity shall not modify, damage or destroy any Waahi Tapu, Waahi Taoka or archaeological sites that are identified in Appendix 3 of the Plan, or in the Kai Tahu ki Otago Natural Resource Management Plan.~~
- (b) ~~The activity shall not affect Ngai Tahu's cultural, spiritual and traditional association with land adjacent to or within Statutory Acknowledgment Areas.~~

...

### 10.9.5.1 Site Standards

...

#### vi Deleted Earthworks

The following limitations apply to all earthworks (as defined in this Plan), except for earthworks associated with a subdivision that has both resource consent and engineering approval.

#### 1. ~~Earthworks~~

- ~~(a) The total volume of earthworks does not exceed **100m<sup>3</sup>** per site (within a 12 month period). For clarification of "volume" see interpretative diagram 5.~~
- ~~(b) The maximum area of bare soil exposed from any earthworks where the average depth is greater than 0.5m shall not exceed **200m<sup>2</sup>** in area within that site.~~
- ~~(c) Where any earthworks are undertaken within 7m of a Water body the total volume shall not exceed **20m<sup>3</sup>** (notwithstanding provision 17.2.2).~~
- ~~(d) No earthworks shall:
 
  - (i) ~~expose any groundwater aquifer;~~
  - (ii) ~~cause artificial drainage of any groundwater aquifer;~~
  - (iii) ~~cause temporary ponding of any surface water.~~~~

#### 2. ~~Height of cut and fill and slope~~

- ~~(a) The height of any cut or fill shall not be greater than the distance of the cut or fill from the site boundary (see interpretative diagram 6). Except where the cut or fill is retained, in which case it may be located up to the boundary, if less or equal to 0.5m in height.~~
- ~~(b) The maximum height of any cut shall not exceed 2.4 metres.~~
- ~~(c) The maximum height of any fill shall not exceed 2 metres.~~

#### 3. ~~Environmental Protection Measures~~

- ~~(a) Where vegetation clearance associated with earthworks results in areas of exposed soil, these areas shall be revegetated within 12 months of the completion of the operations.~~
- ~~(b) Any person carrying out earthworks shall:
 
  - ~~(i) Implement erosion and sediment control measures to avoid soil erosion or any sediment entering any water body. Refer to the Queenstown Lakes District earthworks guideline to assist in the achievement of this standard.~~
  - ~~(ii) Ensure that any material associated with the earthworks activity is not positioned on a site within 7m of a water body or where it may dam or divert or contaminate water.~~~~
- ~~(c) Any person carrying out earthworks shall implement appropriate dust control measures to avoid nuisance effects of dust beyond the boundary of the site. Refer to the Queenstown Lakes District earthworks guideline to assist in the achievement of this standard.~~

#### ~~4. Protection of Archaeological sites and sites of cultural heritage~~

- ~~(a) The activity shall not interfere with or destroy any Waahi Tapu, Waahi Taoka or archaeological sites that are identified in Appendix 3 of the Plan, or in the Kai Tahu ki Otago Natural Resource Management Plan.~~
- ~~(b) The activity shall not affect Ngai Tahu's cultural, spiritual and traditional association with land adjacent to or within Statutory Acknowledgment Areas.~~

...

### 10.10.2 Assessment Matters

...

#### xxi Deleted Earthworks

#### 1. Environmental Protection Measures

- ~~(a) The extent proposed sediment/erosion control techniques are adequate to ensure that sediment remains on-site.~~
- ~~(b) Whether the earthworks will adversely affect stormwater and overland flows, and create adverse effects off-site.~~
- ~~(c) Whether earthworks will be completed within a short period, reducing the duration of any adverse effects.~~
- ~~(d) Where earthworks are proposed on a site with a gradient >18.5 degrees (1 in 3), whether a geotechnical report has been supplied to assess the stability of the earthworks.~~
- ~~(e) Whether appropriate measures to control dust emissions are proposed.~~
- ~~(f) Whether any groundwater is likely to be affected, and any mitigation measures are proposed to deal with any effects. NB: Any activity affecting groundwater may require resource consent from the Otago Regional Council.~~

#### 2. Effects on landscape and visual amenity values

- ~~(a) Whether the scale and location of any cut and fill will adversely affect:
 
  - ~~the visual quality and amenity values of the landscape;~~
  - ~~the natural landform of any ridgeline or visually prominent areas;~~
  - ~~the visual amenity values of surrounding sites.~~~~
- ~~(b) Whether the earthworks will take into account the sensitivity of the landscape.~~
- ~~(c) The potential for cumulative effects on the natural form of existing landscapes.~~

(d) ~~The proposed rehabilitation of the site.~~

### 3. ~~Effects on adjacent sites:~~

(a) ~~Whether the earthworks will adversely affect the stability of neighbouring sites.~~

(b) ~~Whether the earthworks will change surface drainage, and whether the adjoining land will be at a higher risk of inundation, or a raised water table.~~

(c) ~~Whether cut, fill and retaining are done in accordance with engineering standards.~~

### 4. ~~General amenity values~~

(a) ~~Whether the removal of soil to or from the site will affect the surrounding roads and neighbourhood through the deposition of sediment, particularly where access to the site is gained through residential areas.~~

(b) ~~Whether the activity will generate noise, vibration and dust effects, which could detract from the amenity values of the surrounding area.~~

(c) ~~Whether natural ground levels will be altered.~~

### 5. ~~Impacts on sites of cultural heritage value:~~

(a) ~~Whether the subject land contains Waahi Tapu or Waahi Taoka, or is adjacent to a Statutory Acknowledgment Area, and whether tangata whenua have been notified.~~

(b) ~~Whether the subject land contains a recorded archaeological site, and whether the NZ Historic Places Trust has been notified.~~

### 8. ~~Delete the Earthworks rules from Section 11 Business and Industrial Areas as follows:~~

## 11.2 Business Zone Rules

...

### 11.2.2 District Rules

Attention is drawn to the following District Wide Rules, which may apply in addition to any relevant Zone Rules. If the provisions of the District Wide Rules are not met then consent will be required in respect of that matter:

- |                                                            |                                         |
|------------------------------------------------------------|-----------------------------------------|
| (i) Heritage Protection                                    | - Refer Part <a href="#">Section 13</a> |
| (ii) Transport                                             | - Refer Part <a href="#">Section 14</a> |
| (iii) Subdivision, Development and Financial Contributions | - Refer Part <a href="#">Section 15</a> |
| (iv) Hazardous Substances                                  | - Refer Part <a href="#">Section 16</a> |
| (v) Utilities                                              | - Refer Part <a href="#">Section 17</a> |
| (vi) Signs                                                 | - Refer Part <a href="#">Section 18</a> |
| (vii) Relocated Buildings and Temporary Activities         | - Refer Part <a href="#">Section 19</a> |
| (viii) Earthworks                                          | - Refer <a href="#">Section 22</a>      |

...

#### 11.2.5.1 Site Standards

...

#### vii Deleted Earthworks

~~The following limitations apply to all earthworks (as defined in this Plan), except for earthworks associated with a subdivision that has both resource consent and engineering approval.~~

#### 1. ~~Earthworks~~

(a) ~~The total volume of earthworks does not exceed **100m<sup>3</sup>** per site (within a 12 month period). For clarification of "volume", see interpretative diagram 5.~~

(b) ~~The maximum area of bare soil exposed from any earthworks where the average depth is greater than 0.5m shall not exceed **200m<sup>2</sup>** in area within that site (within a 12 month period).~~

~~(c) Where any earthworks are undertaken within 7m of a Water body the total volume shall not exceed **20m<sup>3</sup>** (notwithstanding provision 17.2.2).~~

~~(d) No earthworks shall:~~

- ~~\_\_\_\_\_ (i) expose any groundwater aquifer;~~
- ~~\_\_\_\_\_ (ii) cause artificial drainage of any groundwater aquifer;~~
- ~~\_\_\_\_\_ (iii) cause temporary ponding of any surface water.~~

## ~~2. Height of cut and fill and slope~~

~~(a) The vertical height of any cut or fill shall not be greater than the distance of the top of the cut or the toe of the fill from the site boundary (see interpretative diagram 6). Except where the cut or fill is retained, in which case it may be located up to the boundary, if less or equal to 0.5m in height.~~

~~\_\_\_\_\_ (b) The maximum height of any cut shall not exceed 2.4 metres.~~

~~\_\_\_\_\_ (c) The maximum height of any fill shall not exceed 2 metres.~~

## ~~3. Environmental Protection Measures~~

~~(a) Where vegetation clearance associated with earthworks results in areas of exposed soil, these areas shall be revegetated within 12 months of the completion of the operations.~~

~~(b) Any person carrying out earthworks shall:~~

- ~~(i) Implement erosion and sediment control measures to avoid soil erosion or any sediment entering any water body. Refer to the Queenstown Lakes District earthworks guideline to assist in the achievement of this standard.~~
- ~~(ii) Ensure that any material associated with the earthworks activity is not positioned on a site within~~

~~7m of a water body or where it may dam or divert or contaminate water.~~

~~(c) Any person carrying out earthworks shall implement appropriate dust control measures to avoid nuisance effects of dust beyond the boundary of the site. Refer to the Queenstown Lakes District earthworks guideline to assist in the achievement of this standard.~~

## ~~4. Protection of Archaeological sites and sites of cultural heritage~~

~~(a) The activity shall not modify, damage or destroy any Waahi Tapu, Waahi Taoka or archaeological sites that are identified in Appendix 3 of the Plan, or in the Kai Tahu ki Otago Natural Resource Management Plan.~~

~~(b) The activity shall not affect Ngai Tahu's cultural, spiritual and traditional association with land adjacent to or within Statutory Acknowledgment Areas.~~

~~...~~

## 11.3 Industrial Zone Rules

~~...~~

### 11.3.2 District Rules

Attention is drawn to the following District Wide Rules, which may apply in addition to any relevant Zone Rules. If the provisions of the District Wide Rules are not met then consent will be required in respect of that matter:

- |                                                            |                                |
|------------------------------------------------------------|--------------------------------|
| (i) Heritage Protection                                    | - Refer <b>Part Section 13</b> |
| (ii) Transport                                             | - Refer <b>Part Section 14</b> |
| (iii) Subdivision, Development and Financial Contributions | - Refer <b>Part Section 15</b> |
| (iv) Hazardous Substances                                  | - Refer <b>Part Section 16</b> |
| (v) Utilities                                              | - Refer <b>Part Section 17</b> |
| (vi) Signs                                                 | - Refer <b>Part Section 18</b> |
| (vii) Relocated Buildings and Temporary Activities         | - Refer <b>Part Section 19</b> |

(viii) Earthworks

- Refer Section 22

...

### 11.3.5.1 Site Standards

...

#### vii Deleted Earthworks

The following limitations apply to all earthworks (as defined in this Plan), except for earthworks associated with a subdivision that has both resource consent and engineering approval.

#### 1. Earthworks

(a) The total volume of earthworks does not exceed **100m<sup>3</sup>** per site (within a 12 month period). For clarification of "volume", see interpretive diagram 5.

(b) The maximum area of bare soil exposed from any earthworks where the average depth is greater than 0.5m shall not exceed **200m<sup>2</sup>** in area within that site (with in a 12 month period).

(c) Where any earthworks are undertaken within 7m of a Water body the total volume shall not exceed **20m<sup>3</sup>** (notwithstanding provision 17.2.2).

(d) No earthworks shall:

- (i) — expose any groundwater;
- (ii) — cause artificial drainage of any groundwater aquifer;
- (iii) — cause temporary ponding of any surface water.

#### 2. Height of cut and fill and slope

(a) The height of any cut or fill shall not be greater than the distance of the cut or fill from the site boundary (see interpretive diagram 6). Except where the cut or fill is retained, in which case it may be located up to the boundary, if less or equal to 0.5m in height.

(b) The maximum height of any cut shall not exceed 2.4 metres.

(c) The maximum height of any fill shall not exceed 2 metres.

#### 3. Environmental Protection Measures

(a) Where vegetation clearance associated with earthworks results in areas of exposed soil, these areas shall be revegetated within 12 months of the completion of the operations.

(b) Any person carrying out earthworks shall:

(i) Implement erosion and sediment control measures to avoid soil erosion or any sediment entering any water body. Refer to the Queenstown Lakes District earthworks guideline to assist in the achievement of this standard.

(ii) Ensure that any material associated with the earthworks activity is not positioned on a site within 7m of a water body or where it may dam or divert or contaminate water.

(c) Any person carrying out earthworks shall implement appropriate dust control measures to avoid nuisance effects of dust beyond the boundary of the site. Refer to the Queenstown Lakes District earthworks guideline to assist in the achievement of this standard.

#### 4. Protection of Archaeological sites and sites of cultural heritage

(a) The activity shall not modify, damage or destroy any Waahi Tapu, Waahi Taoka or archaeological sites that are identified in Appendix 3 of the Plan, or in the Kai Tahu ki Otago Natural Resource Management Plan.

(b) The activity shall not affect Ngai Tahu's cultural, spiritual and traditional association with land adjacent to or within Statutory Acknowledgment Areas.

...

## 11.4.2 Assessment Matters

...

### xi Deleted Earthworks

#### 1. Environmental Protection Measures

- ~~— (a) The extent proposed sediment/erosion control techniques are adequate to ensure that sediment remains on-site.~~
- ~~— (b) Whether the earthworks will adversely affect stormwater and overland flows, and create adverse effects off-site.~~
- ~~— (c) Whether earthworks will be completed within a short period, reducing the duration of any adverse effects.~~
- ~~— (d) Where earthworks are proposed on a site with a gradient >18.5 degrees (1 in 3), whether a geotechnical report has been supplied to assess the stability of the earthworks.~~
- ~~— (e) Whether appropriate measures to control dust emissions are proposed.~~
- ~~— (f) Whether any groundwater is likely to be affected, and any mitigation measures are proposed to deal with any effects. NB: Any activity affecting groundwater may require resource consent from the Otago Regional Council.~~

#### 2. Effects on landscape and visual amenity values

- ~~— (a) Whether the scale and location of any cut and fill will adversely affect:
 
  - ~~— the visual quality and amenity values of the landscape;~~
  - ~~— the natural landform of any ridgeline or visually prominent areas;~~
  - ~~— the visual amenity values of surrounding sites.~~~~

- ~~— (b) Whether the earthworks will take into account the sensitivity of the landscape.~~
- ~~— (c) The potential for cumulative effects on the natural form of existing landscapes.~~
- ~~— (d) The proposed rehabilitation of the site.~~

#### 3. Effects on adjacent sites:

- ~~— (a) Whether the earthworks will adversely affect the stability of neighbouring sites.~~
- ~~— (b) Whether the earthworks will change surface drainage, and whether the adjoining land will be at a higher risk of inundation, or a raised water table.~~
- ~~— (c) Whether cut, fill and retaining are done in accordance with engineering standards.~~

#### 4. General amenity values

- ~~— (a) Whether the removal of soil to or from the site will affect the surrounding roads and neighbourhood through the deposition of sediment, particularly where access to the site is gained through residential areas.~~
- ~~— (b) Whether the activity will generate noise, vibration and dust effects, which could detract from the amenity values of the surrounding area.~~
- ~~— (c) Whether natural ground levels will be altered.~~

#### 5. Impacts on sites of cultural heritage value:

- ~~— (a) Whether the subject land contains Waahi Tapu or Waahi Taoka, or is adjacent to a Statutory Acknowledgment Area, and whether tangata whenua have been notified.~~

— (b) — Whether the subject land contains a recorded archaeological site,  
and whether the NZ Historic Places Trust has been notified.

...

## 11.5 Industrial B Zone

...

### 11.5.6 Performance Standards

<p>6</p>	<p><b><u>Deleted Earthworks</u></b>                  The following limitations apply to all earthworks (as defined in this Plan); except for earthworks associated with a subdivision or Outline Development Plan that has both resource consent and engineering approval.</p> <p>1. <del>Earthworks</del></p> <p>(a) <del>The total volume of earthworks does not exceed <b>100m<sup>3</sup></b> per site (within a 12 month period). For clarification of "volume", see interpretative diagram 5.</del></p> <p>(b) <del>The maximum area of bare soil exposed from any earthworks where the average depth is greater than 0.5m shall not exceed <b>200m<sup>2</sup></b> in area within that site (within a 12 month period).</del></p> <p>(c) <del>Where any earthworks are undertaken within 7m of a Water body the total volume shall not exceed <b>20m<sup>3</sup></b> (notwithstanding provision 17.2.2).</del></p> <p>(d) <del>No earthworks shall:</del></p> <p><del>(i) expose any groundwater aquifer;</del></p> <p><del>(ii) cause artificial drainage of any groundwater aquifer;</del></p> <p><del>(iii) cause temporary ponding of any surface water.</del></p> <p>2. <del>Height of cut and fill and slope</del></p> <p>(a) <del>The vertical height of any cut or fill shall not be greater than the distance of the top of the cut or the toe of the fill from the site boundary (see interpretative diagram 6). Except where the cut or fill is retained, in which case it may be located up to the boundary, if less or equal to 0.5m in height.</del></p> <p>(b) <del>The maximum height of any cut shall not exceed 2.4 metres.</del></p> <p>(c) <del>The maximum height of any fill shall not exceed 2 metres.</del></p> <p>3. <del>Environmental Protection Measures</del></p> <p>(a) <del>Where vegetation clearance associated with earthworks results in areas of exposed soil, these areas shall</del></p>	<p>RDIS</p>
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	<p>be revegetated within 12 months of the completion of the operations.</p> <p>(e) Any person carrying out earthworks shall:</p> <ul style="list-style-type: none"> <li>(i) <del>Implement erosion and sediment control measures to avoid soil erosion or any sediment entering any water body. Refer to the Queenstown Lakes District earthworks guideline to assist in the achievement of this standard.</del></li> <li>(ii) <del>Ensure that any material associated with the earthworks activity is not positioned on a site within 7m of a water body or where it may dam or divert or contaminate water.</del></li> </ul> <p><del>(c) Any person carrying out earthworks shall implement appropriate dust control measures to avoid nuisance effects of dust beyond the boundary of the site. Refer to the Queenstown Lakes District earthworks guideline to assist in the achievement of this standard.</del></p> <p>4. <del>Protection of Archaeological sites and sites of cultural heritage</del></p> <ul style="list-style-type: none"> <li><del>(a) The activity shall not modify, damage or destroy any Waahi Tapu, Waahi Taoka or archaeological sites that are identified in Appendix 3 of the Plan, or in the Kai Tahu ki Otago Natural Resource Management Plan.</del></li> <li><del>(b) The activity shall not affect Ngai Tahu's cultural, spiritual and traditional association with land adjacent to or within Statutory Acknowledgment Areas.</del></li> </ul> <p><del>Note: Earthworks in the open space areas shown on the Structure Plan are also subject to an additional performance standard in this table.</del></p>	
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19	<p><b><u>Deleted Earthworks in the fixed open space areas</u></b></p> <ul style="list-style-type: none"> <li>i. <del>There shall be no excavation within the fixed open space areas identified on the Structure Plan entitled 'Industrial B Zone - Connell Terrace Precinct';</del></li> </ul> <p><del>Note: Any ODP or Landscape Plan which proposes excavation will become non-complying.</del></p> <ul style="list-style-type: none"> <li>ii. <del>All earthworks within the fixed open space areas identified on the relevant Structure Plan shall be in accordance with an approved ODP or Landscape Plan.</del></li> </ul>	N-G
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### 11.6.3 Assessment matters relating to performance standards

#### iv Deleted Earthworks – Assessment Matters

~~In considering whether or not to grant consent or impose conditions, the Council shall have regard to, but not be limited by, the assessment matters contained in Section 11.4.2(xi) of the District Plan and, in addition:~~

- ~~(a) With regard to impacts on sites of cultural heritage value, whether the applicant has committed to complying with the Accidental Discovery Protocol, as outlined in Appendix 6 of the Ngai tahu ki Murihiku Natural Resource and Environmental Iwi Management Plan 2008.~~

#### 9. *Delete the Earthworks rules from Section 12.4 Rural Visitor Zones as follows:*

## 12.4 Rural Visitor Zone Rules

...

### 12.4.2 District Rules

Attention is drawn to the following District Wide Rules, which may apply in addition to any relevant Zone Rules. If the provisions of the District Wide Rules are not met then consent will be required in respect of that matter:

- |                                                            |                                |
|------------------------------------------------------------|--------------------------------|
| (i) Heritage Protection                                    | - Refer Part <u>Section 13</u> |
| (ii) Transport                                             | - Refer Part <u>Section 14</u> |
| (iii) Subdivision, Development and Financial Contributions | - Refer Part <u>Section 15</u> |
| (iv) Hazardous Substances                                  | - Refer Part <u>Section 16</u> |
| (v) Utilities                                              | - Refer Part <u>Section 17</u> |
| (vi) Signs                                                 | - Refer Part <u>Section 18</u> |
| (vii) Relocated Buildings and Temporary Activities         | - Refer Part <u>Section 19</u> |
| (viii) Earthworks                                          | - Refer <u>Section 22</u>      |

...

### 12.4.5.1 Site Standards

...

#### iv Deleted Earthworks

~~The following limitations apply to all earthworks (as defined in this Plan), except for earthworks associated with a subdivision that has both resource consent and engineering approval.~~

#### 1. Earthworks

- ~~(a) The total volume of earthworks does not exceed **100m<sup>3</sup>** per site (within a 12 month period). For clarification of "volume", see interpretative diagram 5.~~
- ~~(b) The maximum area of bare soil exposed from any earthworks where the average depth is greater than 0.5m shall not exceed **200m<sup>2</sup>** in area within that site (within a 12 month period).~~
- ~~(c) Where any earthworks are undertaken within 7m of a Water body the total volume shall not exceed **20m<sup>3</sup>** (notwithstanding provision 17.2.2).~~

#### (d) No earthworks shall:

- ~~(i) expose any groundwater aquifer;~~
- ~~(ii) cause artificial drainage of any groundwater aquifer;~~
- ~~(iii) cause temporary ponding of any surface water.~~

#### 2. Height of cut and fill and slope

- ~~(a) The vertical height of any cut or fill shall not be greater than the distance of the top of the cut or the toe of the fill from the site boundary (see interpretative diagram 6). Except where the cut or fill is retained, in which case it may be located up to the boundary, if less or equal to 0.5m in height.~~

- ~~—(b) The maximum height of any cut shall not exceed 2.4 metres.~~
- ~~—(c) The maximum height of any fill shall not exceed 2 metres.~~

### ~~3. Environmental Protection Measures~~

- ~~(a) Where vegetation clearance associated with earthworks results in areas of exposed soil, these areas shall be revegetated within 12 months of the completion of the operations.~~

- ~~(c) Any person carrying out earthworks shall:~~

- ~~(i) Implement erosion and sediment control measures to avoid soil erosion or any sediment entering any water body. Refer to the Queenstown Lakes District earthworks guideline to assist in the achievement of this standard.~~

- ~~(ii) Ensure that any material associated with the earthworks activity is not positioned on a site within 7m of a water body or where it may dam or divert or contaminate water.~~

- ~~—(c) Any person carrying out earthworks shall implement appropriate dust control measures to avoid nuisance effects of dust beyond the boundary of the site. Refer to the Queenstown Lakes District earthworks guideline to assist in the achievement of this standard.~~

### ~~4. Protection of Archaeological sites and sites of cultural heritage~~

- ~~—(a) The activity shall not modify, damage or destroy any Waahi Tapu, Waahi Taoka or archaeological sites that are identified in Appendix 3 of the Plan, or in the Kai Tahu ki Otago Natural Resource Management Plan.~~

- ~~—(b) The activity shall not affect Ngai Tahu's cultural, spiritual and traditional association with land adjacent to or within Statutory Acknowledgment Areas.~~

...

10. Amend the Subdivision Rules in Section 15 as follows:

## ...15.2 Subdivision, Development and Financial Contributions Rules

...

### 15.2.3.6 Assessment Matters for Resource Consents

- (i) The assessment matters to which the Council will have regard in relation to Controlled Subdivision Activities, and Discretionary Subdivision Activities where the exercise of the Council's discretion is limited to a particular matter(s), are specified in Subdivision Rules 15.2.6 to 15.2.4920

...

### 15.2.20 Earthworks

#### 15.2.20.1 Controlled Subdivision Activity – Earthworks

Earthworks associated with any subdivision of land in any zone except for any of the Special Zones that are listed in Section 12 of the District Plan other than the Rural Visitor Zone and any of the Ski Area Sub-Zones are a **Controlled Activity** with the Council reserving control in respect to the matters listed in Rule 22.3.2.2(a)(i)-(ix) in Section 22.

#### 15.2.20.2 Assessment Matters for Resource Consent

In considering whether or not to impose conditions in respect of Earthworks associated with any subdivision the Council may consider the Resource Consents - Assessment Matters 22.4i-viii in Section 22.

11. Amend the earthworks rules from Section 20 Open Space Zone as follows:

## 20.2 Open Space Zone – Landscape Protection Rules

...

### 20.2.1 Cross Referencing

Attention is drawn to the following District Wide Rules that may apply in addition to any relevant Open Space Zone Rules. If the District Wide Rules are not met then resource consent will be required in respect of that matter:

- |                                                            |                                |
|------------------------------------------------------------|--------------------------------|
| (i) Heritage Protection                                    | - Refer Part <b>Section 13</b> |
| (ii) Transport                                             | - Refer Part <b>Section 14</b> |
| (iii) Subdivision, Development and Financial Contributions | - Refer Part <b>Section 15</b> |
| (iv) Hazardous Substances                                  | - Refer Part <b>Section 16</b> |
| (v) Utilities                                              | - Refer Part <b>Section 17</b> |
| (vi) Signs                                                 | - Refer Part <b>Section 18</b> |
| (vii) Relocated Buildings and Temporary Activities-        | - Refer Part <b>Section 19</b> |
| (viii) Earthworks                                          | - Refer <b>Section 22</b>      |

...

### 20.2.2.2 Controlled Activities

#### i Cycling and Walking Trails

The formation of cycling and walking trails (including boardwalks and viewing platforms) and associated earthworks in respect of all of the following:

- Location of trails and viewing platforms
- Size of viewing platforms and boardwalks
- Earthworks
- Cumulative effect of the number of other trails within the Zone

See Rule 22.3.2.2(a) and Assessment Matters in Section 22 Earthworks

### **20.2.2.5 Non-Complying Activities**

#### **i Earthworks**

~~Earthworks not associated with the creation of cycling or walking trails as provided for in Rule 20.2.2.2(ii).~~

12. Amend the Definitions as follows:

## Definitions

...

<u>ARCHEAOLOGICAL SITE</u>	Means an archeological site as defined in section 6 of the Heritage New Zealand Pouhere Taonga Act 2014.
<u>BED</u>	Means Bed as defined in section 2 of the Resource Management Act 1991.
<u>BULK EARTHWORKS</u>	Means Earthworks with a total volume greater than 50,000m <sup>3</sup>
<u>CLEANFILL</u>	Means asphalt (cured), bricks, ceramics, concrete, fibre cement building products, glass, road sub-base, soils, rock, gravel and clay.
<u>CLEANFILL FACILITY</u>	Means a site used solely for the disposal of Cleanfill. A Cleanfill Facility may include stockpiling, landscaping and rehabilitation works.
<u>EARTHWORKS</u>	<p>Means the disturbance of land surfaces by the removal or depositing of material, excavation, filling or the formation of roads, banks, and tracks. Excludes the cultivation of land and the digging of holes for offal pits and the erection of posts or poles or the planting of trees.</p> <p>Means the disturbance of land by the removal or depositing of material. Earthworks include excavation, fill, cuts, batters and formation of roads, access and tracks, and the use of Cleanfill, but does not include the cultivation of land, planting of vegetation including trees, Mining Activities and Cleanfill Facilities.</p>

<u>MINING ACTIVITY</u>	<p>Means the use of land and buildings for the primary purpose of the extraction, winning, quarrying, excavation, taking and associated processing of minerals and includes prospecting and exploration.</p> <p>Means the use of land and buildings for the primary purpose of the extraction, winning, quarrying, excavation, taking and associated processing of minerals and includes prospecting and exploration. Mining Activity includes gravel extraction and processing.</p>
<u>RIVER</u>	<p>Includes a stream, and shall have the same meaning as in the Resource Management Act 1991.</p> <p>Means river as defined in section 2 of the Resource Management Act 1991.</p>
<u>WASTE MANAGEMENT FACILITY</u>	<p>Means a site used for the deposit of solid wastes onto or into land, but excludes:—</p> <ul style="list-style-type: none"> <li>a) sites situated on production land in which the disposal of waste generated from that land takes place, not including any dead animal material or wastes generated from any industrial trade or process on that productive and;</li> <li>b) sites used for the disposal of vegetative material. The material may include soil that is attached to plant roots and shall be free of hazardous substances and wastes.</li> <li>e) Site for the disposal of clean fill.</li> </ul> <p>Means a site used for the deposit of solid waste onto or into land, but excludes:</p> <ul style="list-style-type: none"> <li>a) sites on production land where the disposal of waste generated from that land takes place, not including any dead animal material or waste generated from any industrial trade or process on that productive land, and;</li> </ul>

b) sites used for the disposal of vegetative material. that shall be free of hazardous substances and wastes and may include soil that is attached to plant roots.  
c) Cleanfill Facilities.