



**QUEENSTOWN LAKES DISTRICT COUNCIL
PLAN CHANGE HEARING COMMITTEE**

**PLANNER'S SECTION 42A REPORT FOR
PLAN CHANGE 49: EARTHWORKS**

FOR HEARING COMMENCING: 03 December 2014
REPORT DATED: 17 November 2014
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FOR AND ON BEHALF OF THE QUEENSTOWN LAKES DISTRICT COUNCIL

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1.0 INTRODUCTION

This report has been written in accordance with Section 42A of the Resource Management Act 1991 (RMA). It discusses the various issues raised by submitters and makes recommendations in relation to those issues, in order to assist the Commissioner in drafting the Council's decision.

The proposed Plan Change seeks to simplify the provisions and usability of the Operative Plan through a general liberalisation of the rules to match more closely with the anticipated levels of effects of earthworks.

Although this report is intended to be a stand-alone document, a more in-depth understanding can be obtained from reading the Section 32 Evaluation Report and Monitoring Documents which are available on the Council's website: www.qldc.govt.nz

The relevant provisions in the Queenstown Lakes District Plan, which are affected by the notified Plan Change are:

The whole District Plan – where earthwork provisions are to be consolidated into one new chapter.

2.0 EXECUTIVE SUMMARY

Having considered the various issues raised in submissions, in summary it is recommended that the Plan Change be accepted subject to the amendments included in this report.

Main submission points included more realistic applications of the rules for:

- Earthworks in Ski Area Subzones
- Acceptance of mitigation for development effects, rather than an absolute stance of avoidance.
- Acknowledgement of National level documents.

It is noted that the above is only a summary of the high-level recommendations. Also, these recommendations are made in the absence of hearing any of the detailed evidence presented on behalf of submitters, and that upon hearing such evidence, it is possible that they may change.

3.0 THE PROPOSED PLAN CHANGE

Background

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.
- Gaps and poor linkages in the current policy.

In order to address these issues, the key policy objectives 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.

The proposed provisions were presented to Council 22 May 2014 and approved for Notification.

Relationship to other documents

The reports referred to below can all be viewed on the council's website:

<http://www.qldc.govt.nz/home>

Council Strategies and Plans

Long Term Council Community Plan (2012 - 2022)

The Council's Long Term Community Plan (LTP) is prepared under the Local Government Act 2002 for the period 2012 – 2022. This provides the community with a 10 year plan that allows a coordinated response to growth issues, including articulation of the goals for community, social, infrastructure, traffic and asset management. Within certain parameters changes can be made each year through the annual plan process.

The proposed Plan Change aligns with several of the Community Outcomes contained in this plan, which are paraphrased below;

- Sustainable growth management.
- Quality landscapes and natural environment and enhanced public access.
- A safe and healthy community.
- High quality urban environments respectful of the character of individual communities.
- A strong and diverse economy.
- Preservation of the district's local cultural heritage.

4.0 A SUMMARY OF THE SUBMISSIONS RECEIVED AND THE ISSUES RAISED

A total of 58 submissions and two further submissions were received. The submissions and the full Summary of Decisions requested are available through the Council's website (see above). It is noted that the further submissions were made only by original submitters.

Scope from submissions

The scope is on a predictably wide continuum, from requests to withdraw the Plan change, through to minor typographical errors.

Those seeking withdrawal have not been entertained and are all recommended to be rejected owing to the due process that has been followed to arrive at the current position. The remaining submissions have been broken down into related groups and assessed en masse where it is appropriate to do so.

The issues and report format

The Resource Management Act (the Act), as amended in December 2013 no longer requires this report or the Council decision to address each submission point but, instead, requires a summary of the issues raised in the submissions. As such, this report considers the various decisions requested by submitters, grouped under the following issues:

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

Some submissions contain more than one issue, and will be addressed where they are most relevant within this report.

For each issue the report is generally structured as follows:

- Issues and discussions
- Recommendations

Some proposed amendments are underlined, and due to the number of amendments, a track change version of the Notified provisions is included as Appendix 1. This includes:

- Purpose
- Objectives and Policies
- Rules
- Site standards
- Assessment matters
- Definitions

5.0 DISCUSSION OF THE ISSUES RAISED BY SUBMITTERS

5.1 General

The entire Plan Change

Issues and discussion

Submission 49/45/1 (Patterson Pitts Partners (Wanaka) Ltd) supports the proposed Plan Change in its entirety. This support is noted, however, some amendments may be made in reference to other submissions.

Submitter 49/47/1 (Queenstown Central Ltd.) 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, the recognition 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 49/57/6 (Trojan Holdings Ltd), who support simplifying and streamlining the proposed earthworks for (other District Plan Zones) into one chapter of the District Plan. This is further qualified by 49/57/10 (Trojan Holdings Ltd) requesting 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.

Consequential amendments

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

The submitters request that consequential amendments are made to support their individual issues as raised. This will be accommodated where the more specific points are addressed in relevant sections below.

Recommendations

Accept in part.

Withdraw the plan change and repeat consultation and evaluation

Issue and discussion

Submissions 49/15/1 (Coronet Estates Ltd) , 49/29/2 (Glen Dene Ltd), 49/36/1 (Lake Wakatipu Station Limited), 49/41/1 (Mike Mee) all request that Council withdraw the Plan Change 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 opine that 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.

This is not supported by any assessment on a par with the monitoring report / Section 32 evaluation that resulted in the current approach. The duplication of detail across the Plan is an issue that will be addressed by this Plan Change. Any amendments to the provisions that may further simplify and streamline, in response to individual points of submissions will be considered on their merits. Council also considers that its consultation is adequate and that withdrawing the Plan Change at this stage is not necessary.

General aspects of the Plan Change not supported by these submitters also include 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.

This viewpoint is entirely subjective. Council believes that the process that has resulted in this proposed Plan Change, being - environmental monitoring to establish issues, evaluation of effectiveness of existing and proposed provisions, combined with consultation and acknowledgement of legislative and best practice, is sound. The section 32 process is an evaluation and these submissions do not offer alternatives supported by similar evaluation.

Recommendations

Reject – the need to withdraw the Plan Change and initiate further consultation.

Reject - the submissions that relate to Council's function under the RMA.

Reject – the retention of earthworks provisions within each zone.

Accept in part – reduction of complexity, and removal of unnecessary provisions, in response to individual submission points after due consideration of the merits of each.

Format

Issue and discussion

Submission 49/32/5 (John Edmonds and Associates) 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.

Minor alterations may be made in response to general and specific submission points, but a total revamp of the chapter would lead to unnecessary complication.

It is noted that a staged District Plan Review is under way and that consolidation of formatting and numbering is likely to occur on a wider basis, which may include further alterations on this chapter. This however is outside the scope of this Plan Change.

Recommendations

Accept in part - and make minor amendments to numbering as identified in the attached track change version of the provisions.

Material Incorporated by Reference

Issue and discussion

Submitter 49/32/14 requests that Council ensure that Plan Change 49 is compliant with Part 3 of Schedule 1 of the RMA (with respect to incorporating documents by reference).

Council understands the requirement of this section of the RMA and notes that inclusion of documents such as New Zealand Standards and other documents) are in acceptance of the documents as published, and are subject to change by agencies external to the Council.

Recommendations

Accept

Natural support of land

Issue and discussion

Submitter 49/34/1 (Patrick Kennedy) 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.

On this first issue, the matter is not one which can be considered within the scope of the Plan Change. Secondly, the submitter opines that - owners of any property, where there is 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.

In this issue, 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 existing site standards and no changes are required.

Recommendations

Reject – amendments are not required.

NZCEP 43: 2001

Issues and discussions

Submitter 49/56/6 (Transpower New Zealand Ltd) requests that Council retain and amend all references to the New Zealand Code of Practice for Electrical Safe Distances (NZCEP 34: 2001) as follows:

- New Zealand Electrical Code of Practice for Electrical Safe Distances (NZCEP 34: 2001).

And,

- that Council (49/56/7) 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 that was acknowledged by Council in the initial stages of a recent “District Plan Review”. That review was proceeding without any formal mandate and is now superseded by the new staged Review (authorised April 2014), due for Notification in May 2015. Mapping details will be sought from the submitter now, for inclusion with Stage 1 of that review and attached to the Utilities chapter work stream.

Recommendations

Accept – reference to the document (NZCEP 34:2001) will be retained.

Accept in part – that the Transmission Line Corridor will be mapped (but within the wider District Plan Review)

Ski Area Sub Zones

Issues and discussion

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

This accords with a number of more specific submission points received. The monitoring report raises the need for environmental protection measures as a minimum, however, the importance of the ski fields as part of the District’s tourism base is acknowledged. The imposition of more restrictive provisions therefore will be examined in more detail in the following sections.

Recommendations

Accept in part – to modify – the provisions as detailed below.

Significant Indigenous Vegetation

Issues and discussion

Submitter 49/57/5 (Trojan Holdings Ltd) requests that Council 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 (DoC), and that 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.

The exemptions relating to DoC concessions in Ski Area Sub Zones are now proposed to be removed as they are not required if, in general, works are to be exempted within the ski areas.

Provisions for indigenous vegetation are being reviewed along with the remainder of Stage 1 of the District Plan Review. The duplication of regulation between Council and DoC will also be assessed.

Recommendations

Reject – do not make an exemption regarding Significant Indigenous Vegetation.

Continuity

Issues and discussion

Submitters 49/26/8 (Cardrona Alpine Resort) and 49/54/8 (Te Anau Developments Ltd) request clarification of which rules relate to each level of activity, and how the standards relate to those rules.

The rules appropriate to each level of activity are identified in the relevant leading paragraph. The site standards are a set of measures that development must meet if it is to be considered a permitted activity, i.e., one that does not require resource consent. This is identified in para 22.3.2.1 (a) although the Controlled level of activity has been omitted, and is hereby included.

Particular difficulty has been noted with the exemptions as they may relate to Ski Area Sub Zones, but as this is now recommended to be deleted, this is a moot point.

Recommendations

Accept in part – insert “Controlled” into para 22.3.2.1 (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.

Zone specific

Issue and discussion

Submitter 49/42/1 requests that Council amend PC49 such that it is not applicable to the Millbrook section of the Resort Zone. Submitter 49/50/1 (Remarkables Park Ltd) and 49/52/1 (Shotover Park Ltd) request that Council withdraw the plan change and consult with them directly as they deem the level of prior consultation to be inadequate. The former, at 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) are not changed as a result of PC49.

The latter also requests that Council consider the retention of earthworks provisions within each zone.

Plan Change 49 is a district wide matter and as such, a generalised approach has been taken by grouping zones – and parts of zones that have similar receiving environments. Not all individual zones are given specific treatment, and no benefit is seen from adopting the suggested approaches.

Recommendations

Reject all – no amendments required.

5.2 Purpose

Issues and discussion

Submitters 49/28/1 (Gibbston Valley Station) and 49/1/1 (Blackmans Creek Holdings No 1 LP) request 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.

Submitter 49/33/1 (Kai Tahu Ki Otago Ltd) 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." Support is given from 49/31/FS25 (Heritage New Zealand) to the need for a reference to heritage landscapes.

Submitter 49/44/1 (Otago Regional Council) request that Council 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.

Recommendation

Accept – amendments been incorporated and are shown in Appendix 1

National Policy Statement

Issues and discussion

Submitters 49/46/1 (Queenstown Airport Corporation) and 49/44/2 (Otago Regional Council) request that the reference to the "National Policy Statement Freshwater Quality (2011)" to read "National Policy Statement Freshwater Management (2014)".

The National Policy Statement for Freshwater Management 2014 supersedes the 2011 document as at 01 August 2014. The direct relevance to this document is unchanged.

Recommendations

Accept – amendments been incorporated and are shown in Appendix 1

5.3 Objectives

Issues and discussion

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

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

Whilst there are instances where the adverse effects of earthworks are preferred to be avoided, it is also possible that with an appropriate level of mitigation some would be acceptable.

The issue of recognising that earthworks can be beneficial is also raised, 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. 49/18/1 (*Cambricare NZ Ltd.*) 49/42/3 (*Millbrook Country Club Ltd*), 49/49/2 (*RCL Queenstown (RCL)*).

The following submissions also request clarity and better linkages between the objectives and subsequent policies: 49/32/4 (*John Edmonds and Associates Ltd (JEA)*), 49/44/3 (*Otago Regional Council*), 49/52/3 (*Shotover Park Ltd.*), 49/32/1 (*John Edmonds and Associates Ltd (JEA)*) - who also request that Council identify whether the provisions apply to rural or urban zones, and in 49/32/2, and 49/32/3 (*John Edmonds and Associates Ltd (JEA)*) request that Council 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. It is acknowledged that several of the objectives are drawn from previously separate chapters but consider that overall, subject to some minor amendments, these effectively address the district's environment.

The recently identified issues with the absolute stance that stems from the use of “avoid” within an objective or policy are still evolving. It must be accepted that there are a range of possible effects of earthworks development from the very, very minor, to the significantly adverse. This District has an extremely high proportion of regionally and nationally significant landscapes, which cover vast features. Whilst relatively small earthworks development may occur and be considered insignificant, especially from a public viewpoint and from longer distances, more obvious development, easily observed from public vantage points may have disproportionately high perceived effects. That said, the District Plan generally supports the use of the surrounding natural landscape for (public) recreation. This demonstrates a willingness to accept some level of effects, and subsequently increases the number of elevated public viewpoints from which important landscapes, and any development on them can be observed.

The beneficial aspects of earthworks are the same as those of any good planning outcome and are acknowledged, but not elevated for special treatment from all other types of development. The “primacy” given to existing landforms (presumably meaning natural landforms) does not automatically outweigh appropriate development, even in urban areas. However, it is a matter of scale and significance in each case. This must be assessed with the standard method of examining the level of effects against the receiving environment. This should also acknowledge that individual developments may contribute to cumulative effects.

Taking all these submissions into account, the objectives and subservient policies were reviewed, and that process has included the more specific issues below.

Ski Areas

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

Whilst acknowledging this, the need to comply with other requirements must also be a factor (Significant Indigenous Vegetation (SIV) for example) and the reference to the current exclusion of ski areas from ONL / ONF's is also very relevant.

The District is economically supported by ski tourism either directly or by associated provision of service industries such as transport, catering, retail, accommodation etc., etc. Ski areas have been identified and development within their boundaries is anticipated. Earthworks for operational areas, trails and accesses are a necessary element of these large scale operations and involves varying amounts of earthworks on a regular basis. Trails need to be maintained, but also improved, enhanced, and works are reactive - so when the snow clears, assessments occur and work plans are devised. Actual earthworks must follow within a relatively short window. Delaying the process for consent to be pursued would be counterproductive for the District's tourism focus. It is noted that the intended exemptions apply to ski operations in ski area sub zones and do not extend to other activities.

Landscapes

Submitter 49/28/2 (Gibbston Valley Station) requests that reference to landscape and visual amenity are deleted from Objective 2 and elsewhere in the provisions.

Submitter 49/1/2 (Blackmans Creek Holdings No 1 LP) oppose objective 2 and request that it is deleted and that Council amend Objective 4 by deleting the words "subject to objective 2"

This is not a valid approach given the possible effect of earthworks on the environment that forms such a special part of the District.

Cultural Heritage / Heritage

Submitter 49/31/1 (Heritage New Zealand) partly supports the plan change (subject to its amendments) and requests:

- Replace the reference to "New Zealand Historic Places Trust and Historic Places Trust" in Objective 6 with "Heritage New Zealand"
- Add an additional objective (sic (policy)) 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".

The latter point will be addressed under 'Policies'.

Submitter 49/33/2 (Kai Tahu Ki Otago Ltd.) specifically requests the retention of Objective 6.

Alignment with the RMA

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

The use of the phrase is measured, and is consistent with the intention of the objective. Avoidance of the adverse effects is the requirement, and it is the targeting of the inappropriate development in the subservient policy that reflects the use of the word in the RMA.

Rural Areas

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

- 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 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."

The issues relating to ski fields is dealt with in the paragraphs above, but is generally agreed with. Separating out this significant policy area requires an individual objective to be created.

With regard to Rural Visitor zones the same level of effects is not anticipated by the Plan as may be in the ski areas. There is no justification for this request.

Retain as proposed

Submitters 49/55/4 (The Oil Companies) and 49/57/3 (Trojan Holdings Ltd) request the retention of Objectives 3 and 6 without modification and 2 and 4 respectively.

This support is noted, however these are subject to amendments being required in response to other submissions. The intent of these objectives however will be retained.

Recommendations

Accept in part - amend the objectives to reflect the possibility of remediation or mitigation.

Accept - amend the objectives to provide for operation and development of ski operations

Accept in part – retain references to landscapes

Accept – references to heritage New Zealand to be updated, and retention of the content of objective 6.

Reject – the replacement of ‘adverse’ with ‘inappropriate’ in objective 2.

Accept – amendments to objective 4 to remove the reference to objective 2

Reject – amendments to objective 4 by including ‘Rural Visitor Zone’

Accept in part – retain the intention of objectives 2, 3, 4 and 6

Objectives (revised) – delete existing and replace with the following as per Appendix 1

- Enable earthworks that are part of subdivision, development, and access, provided that they are undertaken in a way that avoids, remedies or mitigates adverse effects on communities and the natural environment

- Protect rural landscapes and visual amenity areas from the adverse effects of earthworks where practicable.
- Ensure earthworks do not adversely impact on the stability of land, adjoining sites or exacerbate flooding.
- Enable earthworks in rural areas that improve the efficiency, safety, economic viability of farming operations, and public recreation.
- Enable the development and operation of ski-fields within Ski Area Sub-Zones.
- Maintain or improve water quality of rivers, lakes and aquifers.
- Protect cultural heritage, including waahi tapu, waahi taonga, archaeological sites and heritage landscapes from the adverse effects of earthworks.
- Provide for cleanfill capacity on appropriate sites and promote diversion of cleanfill material from landfills.

5.4 Policies

Heritage New Zealand / Pouhere Taonga Act 2014

Issues and discussion

Submissions are made by 49/31/2 (Heritage New Zealand) to support the plan change (subject to amendments) and to recognise their new name (formerly New Zealand Historic Places Trust) and 49/1/17 (Blackmans Creek Holdings No 1 LP) requests that reference to their legislation is also updated to "Heritage New Zealand Pouhere Taonga Act 2014".

The support is noted and the update is a necessary step.

Recommendation

Accept - amend as requested and included in Appendix 1

General

Issues and discussion

Submitters 49/21/2 (Barley Station Ltd), 49/24/4 (Millbrook Country Club Ltd), 49/49/3 (RCL Queenstown (RCL)), 49/52/4 (Shotover Park Ltd) and (49/18/2 Cambricare NZ Ltd) request 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 policies be amended to recognise that mitigation and remediation of effects arising from earthworks will often be an appropriate course of action.

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

Submitters 49/58/2 (Woodlot Properties), 49/28/6 (Gibbston Valley Station) and 49/26/2 (Cardrona Alpine Resort) requests that policies 1.1 - 1.5 are amended to include "and mitigate" after the word "avoid" and add the word "remedy" to Policy 1.5, policies 2.1 and 2.2 are amended 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 requests for mitigation come from 49/47/3 (Queenstown Central Ltd) and 49/48/2 Queenstown Trails Trust.

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

Submitter 49/46/3 (Queenstown Airport Corporation) request a similar amendment for policy 1.2 as above and also that reference is included to "dust plumes above the site". A further element of the submission request 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".

Submitter 49/55/2 (The Oil Companies) requests 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), 3.1 and 3.3 (49/55/5), 6.1 and 6.7 (49/55/7) are retained without modification. Policy 5.1 is modified, to avoid, to the extent practicable...and 5.2 is retained (49/55/6).

Submitter 49/1/12 (Blackmans Creek Holdings No 1 LP) 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 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.

Additionally in 49/1/6 (Blackmans Creek Holdings No 1 LP) amend policies 1.2 and 1.5 as follows:

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

Submitters 49/1/3 (Blackmans Creek Holdings No 1 LP) and 49/28/3 (Gibbston valley Station) also 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).

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

Submitter 49/1/14 (Blackmans Creek Holdings No 1 LP) requests that 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".

Submitter 49/57/4 (Trojan Holdings Ltd) partly supports proposed Policy 4.4 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.

To align with the overall submissions as they relate to ski area sub zones, and to increase clarity, also requested, an Objective relating to this matter has been separated out and created. The associated policy will need to be aligned.

Submitter 49/1/15 (Blackmans Creek Holdings No 1 LP) 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 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".

Submitter 49/54/3 (Te Anau Developments Ltd) request amendments to policies 4.1 to 4.4 to provide for earthworks for remedial flood defence.

Submitter 49/1/16 (Blackmans Creek Holdings No 1 LP) raises concerns about the continuity of the policies as follows:

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.

Submitter 49/44/4 (ORC) raise issues regarding:

- 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.

To avoid circular amendments being made in response to these submission points above, they are addressed jointly, and with due consideration given to the intended amendments to the objectives above. The "readability" has also been considered to ease clarity. The majority of the intentions remain, albeit with some condensing of the format.

Recommendations

Accept in part – all submissions relating to the realignment of the objectives and policies with the avoid, remedy or mitigate approach where appropriate.

Reject – all submissions requesting the deletion of reference to landscapes and visual amenity.

Accept - the submission to include a further policy relating to undermining or vibration effects on heritage features.

Accept in part – all submissions relating to retaining Objectives 3 and 6 without modification and Objectives 2 and 4.

Accept in part – specific recognition is given to ski areas through a new objective and policy

Accept in part – amendments to improve the general readability and continuity of the policies

Objectives and Policies (revised)

Enable earthworks that are part of subdivision, development, and access, provided that they are undertaken in a way that avoids, remedies or mitigates adverse effects on communities and the natural environment.

- Promote earthworks designed to be sympathetic to natural topography where practicable, and that provide safe and stable building sites and access with suitable gradients.
- Use environmental protection measures to avoid and mitigate adverse effects of earthworks.
- Require remedial works and re-vegetation to be implemented in a timely manner.
- Avoid, where practicable, the long term adverse effects of unfinished projects.

Protect rural landscapes and visual amenity areas from the adverse effects of earthworks where practicable.

- Avoid effects of earthworks from inappropriate development on Outstanding Natural Features, Outstanding Natural and Heritage Landscapes.
- Avoid adverse visual effects of earthworks on visually prominent slopes, natural landforms and ridgelines, where practicable.
- Ensure cuts and batters are sympathetic to the line and form of the landscape.
- Ensure remedial works and re-vegetation mitigation are effective, taking into account altitude and the alpine environment.

Ensure earthworks do not adversely impact on the stability of land, adjoining sites or exacerbate flooding.

- Ensure earthworks, in particular, - cut, fill and retaining, - do not impact on the stability of adjoining sites.
- Ensure earthworks do not cause or exacerbate flooding, and avoid, remedy or mitigate the effects of de-watering.
- Avoid earthworks, including tracking, on steeply sloping sites and land prone to erosion or instability, where practicable. Where it cannot be avoided, ensure techniques are adopted that minimise the potential to decrease land stability.

Enable earthworks in rural areas that improve the efficiency, safety, economic viability of farming operations, and public recreation.

- Provide for earthworks associated with farming activities where they enhance the efficiency of operations, including the maintenance and improvement of track access and fencing.
- Provide for earthworks to create fire breaks.
- Provide for earthworks associated with public recreation, where practicable.

Enable the development and operation of ski-fields within Ski Area Sub-Zones.

- Provide for earthworks that enable the growth, development and consolidation of ski fields.

Maintain or improve water quality of rivers, lakes and aquifers.

- Avoid the location of earthworks in close proximity to water bodies, where practicable. Where this cannot be avoided, ensure that sediment control techniques are put in place to avoid sediment run-off.
- Avoid earthworks contaminating or penetrating water aquifers, including Hawea Basin, Wanaka Basin, Cardrona alluvial ribbon and Wakatipu Basin aquifers.

Protect cultural heritage, including waahi tapu, waahi taonga, archaeological sites and heritage landscapes from the adverse effects of earthworks.

- Ensure that iwi are consulted regarding earthworks that may affect sites of significance to Maori, including Statutory Areas.
- Consult with Heritage New Zealand where proposed earthworks may affect any archaeological sites.
- Recognise and protect the values of heritage landscapes from the adverse effects of earthworks.
- Protect heritage buildings and structures from potential undermining and vibration effects resulting from earthworks on the same site or sites in close proximity.

Provide for cleanfill capacity on appropriate sites and promote diversion of cleanfill material from landfills.

- Ensure materials for deposition at cleanfill facilities meet acceptance criteria.
- 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.
- Avoid significant water bodies and their margins.
- Avoid sites of cultural heritage and archaeological significance.
- Ensure cleanfill facilities avoid or mitigate the adverse effects of dust, noise and traffic on neighbours and residential areas.
- Ensure cleanfill sites are rehabilitated and remedial restoration works carried out in a timely manner.

5.5 General Provisions / Cross Referencing

General

Issue and discussion

Submitter 49/1/18 (Blackmans Creek Holdings No 1 LP) concludes 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 section heading follows the general convention of the remainder of the District Plan and reasonably identifies its contents. No amendments are considered necessary.

Recommendations

Reject – retain as proposed.

Bio diversity

Issues and discussion

Submitter 49/44/5 (Otago Regional Council) requests clarification 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.

Matters related to biodiversity, including Significant Indigenous Vegetation are addressed in chapter 5 (Rural) of the District Plan, and Appendix 5 – Areas of Significant Indigenous Vegetation and habitat of indigenous fauna, and are included in the reference at 22.3.1 I (a). but could be made clearer.

Accept in part - amend the reference to:

(ii) Rural (Section 5 and Appendix 5 for Significant Indigenous Vegetation and Habitat of Indigenous Fauna).

Heritage New Zealand name change and legislation update

Issues and discussion

Submitters 49/44/6 (Otago Regional Council) and 49/31/3 (Heritage New Zealand_ partly support this section (22.3.1(iv)(a), b), and c)) and request an amendment to reflect updated legislation / name change as follows:

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

Replacing the references to "Historic Places Act 1993" with "Heritage New Zealand Pouhere Taonga 2014".

Recommendation

Accept – amend as per Appendix 1

Tangata Whenua

Issues and discussion

Submitter 49/33/4 (Kai Tahu Ki Otago Ltd.) partly supports the section and request that Council add a reference to Tangata Whenua. The current provisions include reference to tangata whenua within the District Wide Matters chapter and in the Statutory Acknowledgment. The former does not include any rules and referencing to objectives and policies may not assist the legibility of the Plan. The latter is already included.

For further clarity, there is a discrete tangata whenua chapter being considered in the District Plan Review.

Recommendation

Reject – no amendments required.

Subdivision

Issue and discussion

Submitter 49/57/7 (Trojan Holdings Ltd) supports the 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. 49/52/5 (Shotover Park Ltd.) also support the clarification that earthworks undertaken as part of a subdivision are exempt from land use requirements for earthworks is supported.

This support is noted.

Submitter 49/46/4 (Queenstown Airport Corporation) state that 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.

This rule (15.2.20) is included in the proposed provisions and is a valid inclusion to cross reference.

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

The minimum level of activity for subdivision throughout the Plan is controlled, as such the proposed link to earthworks for subdivision is aligned with that level. The proposal to impose a discretionary activity for bulk earthworks however reflects the wide range of possible effects from larger projects.

Recommendation

Accept – the support for the inclusion of 15.2.20.

Reject – the submission stating that rule 15.2.20 does not exist.

Accept in part / reject in part – that provisions for bulk earthworks for subdivision are retained.

NES

Issues and discussion

Submitter 49/55/8 (The Oil Companies) support the 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) and request its retention without modification.

The support is noted.

Recommendation

Accept – retain as proposed

Noise

Issues and discussion

Submitter 49/1/20 (Blackmans Creek Holdings No 1 LP) request the deletion of rule 22.3.1.(iii) (re noise) as they consider that there is no need for a cross-reference here because the later rule is located in this Part 22.

This general provision is included for ease of use and can be retained.

Recommendation

Reject – no amendments required.

Archaeology

Issues and discussion

Submitter 49/1/21 (Blackmans Creek Holdings No 1 LP) request clarification as follows:

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 (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 22.3.1.i.(a)(i); and subparagraph a) adequately deals with this issue.

A further submission by 49/31/FS29 (Heritage New Zealand) partly opposes this and requests Council retain the Rule 22.3.1.iv but with amendments.

Heritage New Zealand have requested the inclusion of a definition for archaeological sites, which is addressed later in this report. It is an important element of earthworks chapters in several District Plans to make a statement about legislation surrounding archaeological sites. There is a substantial overlap between the two pieces of legislation, but neither is mutually exclusive.

Recommendation

Accept in part / reject in part – clarify the definition of archaeological site, but no other suggested amendments are required

5.6 Rules – levels of activities

Exemptions – subdivision

Issues and discussion

Submitter 49/1/19 (Blackmans Creek Holdings No 1 LP) 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.

This clarification will assist in achieving the enabling aim of the proposed provisions. It will be necessary to understand the implications of agreeing an approved building platform, but considering this at the time of subdivision is most appropriate.

Further submissions by 49/46/FS1 – 14 (Queenstown Airport Corporation (QAC) also submission point /19 of submitters 49/2 to 49/14) partly oppose the request to allow these amendments and wish to ensure that environmental protection measures (dust control) and required. This is addressed under Site Standard, although the opposition is noted.

Recommendations

Accept – amend rule 22.3.1 ii (a) as follows:

- (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.

Jacks Point Zone

Issues and discussion

Submitters 49/5/31 (Jacks Point Residents and Owners Association Inc) and 49/2/31 Coronet View Holdings Ltd) request that Council make the following amendments:

- 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."

The proposed addition of the exemption would apply to all development activities, which is not appropriate given the mixture of residential and other uses of the zone.

Deleting the area trigger from rule 22.3.2.2(b) accords with the standardisation of volume triggers and can be accommodated.

The deletion of the discretionary activity and subsequent linkage to Tier 7 is not appropriate given the sensitivity of the receiving environment and the current level of control.

Recommendations

Reject - the addition of a new 'exemption'

Accept - the deletion of "...and/ or 2,500m² of exposed topsoil...".

Reject – the removal of the discretionary activity.

Ski Area Sub zones

Issues and Discussions

Several submissions request a reappraisal of the imposition of more stringent rules to the ski area sub zones. The acknowledgement of the specialist nature of these operations and environmental effects is addressed partly under the revised objectives and policies. To ensure continuity, this is further considered against individual points below.

Submitters 49/1/31 (Blackmans Creek Holdings No 1 LP), 49/3/31 (Glencoe Land Development Company Ltd), 49/12/31 (Real Journeys Limited), 49/4/31 (Glencoe Station Ltd.), 49/26/5 (Cardrona Alpine Resort) and 49/14/31 (Treble Cone Investments Limited) request a number of amendments 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 22.3.3 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.

Submitter 49/30/3 (Glencoe Station Limited) requests that rule 22.3.2.1(c)(ii) is modified 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, being:

- 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

Submitter 49/53/2 (Southern Hemisphere Proving Ground) requests the same as 49/30/3, or that Council modify rule 22.3.2.4 (b) re bulk earthworks to exempt all earthworks undertaken within a ski area subzone. Submitter 49/30/4 (Glencoe Station Limited) also requests that rule 22.3.2.4(b) re bulk earthworks is modified to exempt all earthworks undertaken within a ski area subzone.

Submitter 49/57/1 (Trojan Holdings Ltd) 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 their interests as there is currently no Conservation management Plan that applies to its ski field areas.

Rules will be amended to allow a general exemption for earthworks and bulk earthworks in the ski area sub zones that relate to aspects of the ski fields. This includes operations areas, trails and access. Other activities will not be exempted.

Recommendations

Accept in part - insert amendments to provide for the general exemption of ski field operations as per Appendix 1.

Tracks

Issues and Discussions

Submitter 49/26/5 (Cardrona Alpine Resort) (in addition to the ski area sub zones elements of this numbered point) opposes rule 22.3.2.1(i)(e) and requests 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".

Submitter 49/40/1 (McLeod, Bruce) 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). They further opine that 10% is too limiting for a farm track re-surfacing.

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

Several submitters 49/29/3 (Glen Dene Ltd.), 49/31/FS16 (Heritage New Zealand), 49/15/7 (Coronet Estates Ltd, Wakatipu Retreat Ltd, Malaghans Park Ltd, and Arrowtown Downs Ltd.), 49/31/FS11 (Heritage New Zealand), 49/50/8 (Remarkables Park Ltd), 49/31/FS22 (Heritage New Zealand), 49/36/5 (Lake Wakatipu Station Limited) 49/31/FS17 (Heritage New Zealand), 49/36/6 (Lake Wakatipu Station Limited) 49/31/FS18 (Heritage New Zealand) 49/41/5 (Mee, Mike), 49/31/FS19, (Heritage New Zealand) 49/41/6 (Mee, Mike 49/31/FS20 (Heritage New Zealand) 49/15/6 (Coronet Estates Ltd, Wakatipu Retreat Ltd, Malaghans Park Ltd, and Arrowtown Downs Ltd.) 49/31/FS10 (Heritage New Zealand) 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. Submitter 49/48/3 (Queenstown Trails Trust), 49/31/FS21 (Heritage New Zealand) in particular also requests 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. They

opine that as currently drafted, the rule does not go far enough to achieve policy 4.3. Heritage New Zealand's common opposition in its further submissions is that the increase in earthworks offers an appropriate trigger for further assessment of potential effects on heritage.

This raises the issue of balance between the Plan being enabling without being too liberal. For farming activities, assumed to be completely within rural areas, there is a general allowance of up to 1,000 cubic metres per year, in addition to the 10 per cent exemption for the maintenance of tracks. New tracks, whether for farming or recreational use may have significant 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 are dominated by important landscapes. This stance is supported by the further submission of Heritage New Zealand, as some of these landscapes are identified as having significant heritage values.

Recommendations

Accept in part / reject in part - and amend to:

Earthworks associated with the maintenance of farm track access, fencing, firebreaks, public recreational tracks, and provided that the maintenance work results in less than a 10% increase in the exposed surface area of that feature in any 10 year period.

Accept in part – that the 10 percent limit applies to sub clauses a – d only (as (e) is to be removed)

Controlled Matters

Issues and discussion

Submitter 49/40/2 (McLeod, Bruce) questions the enforceability of rule 22.3.2.2(d)(iii) as follows:

“If Council deem the cumulative effect of a proposed track is not appropriate, how can it be declined if it is controlled.”

The referenced rule is a matter for Council's control and as such does not constitute a reason to potentially decline a consent. Conditions may be imposed and the cumulative effects may inform Council on the range of those conditions required. Read with the other matters for control this seems an appropriate measure.

Recommendation

Reject – no amendments required.

Controlled and Restricted Matters

Issues and discussion

Submitter 49/31/4 (Heritage New Zealand) support the retention of rules 22.3.2.2(c)(vii) and 22.3.2.3(b)(vii).

The support is noted and the rules retained.

Recommendations

Accept

Bulk Earthworks

Issues and discussions

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

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

Submissions on the bulk earthworks provisions range from a request to delete them, re-consider them or reduce to Restricted Discretionary. The 50,000 cubic metre trigger is an arbitrary figure but is included as a reasonable reflection of the scale of earthworks that occurs within the District. Earthworks on this scale, where not included as part of a planned subdivision or other large scheme can have a range of effects including, traffic generation - dust, noise, vibration, and visual, stability etc. Whilst some of these effects are dealt with individually under site standards, the scale of the effects, which is commensurate with the scale of the activity must be given appropriately increased attention. Included within the related assessment matters is a provision to address uncompleted works which can have long-term adverse effects on the community. Given the variety of effects that may occur from such activities, and the wide range of locations, then the discretionary level of activity is appropriate.

Recommendations

Reject - no amendments required.

Cultural and archaeological sites

Issue and discussion

Submitter 49/33/5 (Kai Tahu Ki Otago Ltd.) 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.

Recommendation

Accept – noted and retained

Effects on roading

Issue and discussion

Submitter 49/35/3 (Kunath, Mark) 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 the cleanfill facility resource consent through a condition on their consent or a targeted transport rate on the cleanfill facility land.

The assessment matters for this discretionary activity highlight that such matters as traffic and related mitigation measures can be incorporated in a decision, as can the lodgement of bonds, or the use of other legal instrument. The provision of plans addressing site rehabilitation, remedial restoration works and time frames can equally apply to access roads within reason.

Recommendation

Reject – no amendments required.

Wetlands, lakes and rivers

Issues and discussions

Submitter 49/44/7 (Otago Regional Council) 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. They also suggest that “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”. The latter point is noted but no increase in application is planned at this juncture.

Recommendations

Accept in part – a new matter for control is included as follows:

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

Zone specific

Issues and discussion

Submitter 49/42/2 (Millbrook Country Club Ltd.) opposes the rules relating to bulk earthworks and requests their deletion, also to provide 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.

Earthworks is deliberately district wide and the long term aim is to align all parts of the District Plan. Resort Zones are catered for within Special Zones, which are broken down into activity areas. This allows the effects of earthworks activities to be matched to the receiving environment. Further discussion on bulk earthworks is included above.

In theory a generic exemption could be applied to golf course maintenance through the district but there are a number of golf courses in the district within differing environments.

Recommendations

Reject – no amendments required.

Issues and discussion

Submitter 49/51/1 (Shotover Country Limited) request the following amendments:

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.

This relates to a number of specific and individual areas. The purpose of the plan change is to address more generic district wide issues, and the list of issues identified appear to be more suited to matters for individual resource consents.

Recommendation

Reject – no amendments required

Issues and discussion

Submitter 49/54/6 (Te Anau Developments Ltd.) request the following amendments:

- Amend Rule 22.3.2.1 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.

This is addressed in "Tracks" above, recommendations also apply as above.

- 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.

These activities reflect a very wide range of potential effects against an equally wide range of receiving environments. As such, these are more appropriately addressed at a discretionary level and should not be exempted from the need for consents.

- 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 (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 a Ski Area Sub-Zone are a permitted activity.

These subjects are covered in the discussion and recommendations for ski areas above.

Utility related

Issues and discussion

Submitter 49/55/9 (The Oil Companies) supports the retention of rule 22.3.2.1 (b) (ii). without amendment. This provision is included to align with the requirements of the relevant NES.

Recommendations

Accept – note the support and retain without amendments.

Issues and discussion

Submitter 49/56/1 (Transpower New Zealand Ltd) supports the retention of rule 22.3.2.3 (a) as notified, requests the deletion of rule 22.3.2.3(c), 49/56/2 and amendments to the matters of discretion in rule 22.3.2.3 (d) - (49/56/3) - 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)."

At 49/56/4 (Transpower New Zealand Ltd) also request 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)."

The notable change is from the restriction applicable to the more discrete Shotover Country Special Zone, to the entire transmission line corridor. This is understood to be 32m either side of the centre line. This is in line with the NPS however, and Council accepts this requirement.

What is less clear is the splitting of the sub clauses in the site standards. A restricted discretionary activity is triggered if one or more of the site standards are breached. The submitter is requesting that if two specific sub clauses are breached then a non-complying activity is triggered. This would lead to a confusion of levels of activity – this is simplified by accepting the restricted discretionary level for all – this is supported with the inclusion of the need for written approval of the operator as dealt with in the issues on non-notification.

Recommendations

Accept – retain 22.3.2.3 (a)

Accept – delete rule 22.3.2.3(c),

Accept – amend 22.3.2.3 (d), and renumber to (c) as follows:

(c) 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)."

Reject – do not include a new non-complying rule.

General

Issues and discussion

Submitter 49/49/5 (RCL Queenstown (RCL)) requests 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) Restrictions on earthworks near boundaries

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

Submitter 49/32/7 (John Edmonds and Associates Ltd (JEA)) request 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' (Proposed 15.xxx) and reducing them to controlled or restricted discretionary status. Further, the same submitter at 49/32/11 also requests that Council consider reducing the activity status of those earthworks consents proposed to be restricted discretionary to controlled activity status.

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

One of the high level aims of this proposed chapter is to be enabling, also to remove duplication and provide clarity. This is not to be confused with an over- liberalisation of rules simply to reduce the number and complexity of consents, although the latter may be a welcome outcome. The various elements of the provision from objectives, policies, rules and standards combine to achieve that aim by making the chapter enabling at all levels. The setting of the rules for each of the levels of activities has been considered against the anticipated effects of a wide range of activities through due process.

Recommendations

Reject – that the levels of activities are unjustified.

Accept - and note the support for the proposed levels

Environmental Protection Measures

Issues and discussion

Submitter 49/32/13 (John Edmonds and Associates Ltd (JEA)) request that Council remove or refine the wording with respect to Environmental Protection Measures when listed as matters of control of discretion. This is supported by 49/46/FS39 (Queenstown Airport Corporation (QAC)) .

The simplification of these matters will aid legibility and continuity and the amendment can be accommodated.

Recommendations

Accept – amend as per Appendix 1

Capitalisation

Issues and Discussion

Submitter 49/1/23 (Blackmans Creek Holdings No 1 LP) requests Council to 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 (them).

Recommendations

Noted and amended to:

(ii) Environmental protection

(vii) The effects on cultural and archaeological Sites

Issues and discussion

Submitters 49/32/6 (John Edmonds and Associates Ltd (JEA)) 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.

This is the process that has occurred already. The Plan does not contain a generic approach to earthworks, nor any particular subject, due to its inclusion of a number of special zones, private plan changes, judicial decisions and previous drafting. The majority of earthworks provisions are due to be deleted from the individual sections of the currently Operative Plan and consolidated in this new section.

Recommendation

Reject – this has already been completed.

Issues and discussion

Submitter 49/49/7 (RCL Queenstown (RCL)) requests justification for, and / or amendments as follows:

- 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 (iii) which permits earthworks otherwise approved via resource consents for buildings in the Remarkables Park Zone under 12.11.3.2 (i) be extended to buildings approved under rule 12.2.3.2 (vii) in the Jacks Point Zone.

The use of varying levels of activities is considered to correspond with the anticipated effects of the development activity against the receiving environments. As such the levels of activities are reasonable and do not require further amendment.

Rule 22.3.4. (c) is discussed above.

The exemption in rule 22.3.2.1 (iii) could be extended to include buildings approved under rule 12.2.3.2 (viii), but would also affect other Resort Zones who have not requested the same. Adding more specific individual allowances would be adding complexity to the provisions which is against the overall intention of the Plan Change.

Recommendations

Reject – no amendments are required.

5.7 Non-notification

Ski areas

Issues and discussion

Submitters 49/53/4 (Southern Hemisphere Proving Ground) and 49/30/5 Glencoe Station Limited) oppose rule 22.3.2.6(a)(iii) and request it is amended to include all earthworks and bulk earthworks undertaken within a ski area subzone.

There is already a provision at (iii) for activities for earthworks in the Ski Area Subzones, i.e., they will not be notified. This could be further clarified by the addition of a reference to Bulk Earthworks.

Recommendation

Accept in part and amend to:

(iii) Earthworks and Bulk Earthworks in Ski Area Subzones

General

Issues and discussion

Submitters 49/1/11 (Blackmans Creek Holdings No 1 LP), and 49/28/10 (Gibbston Valley Station) request that Council 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.

Submitters 49/49/6 (RCL Queenstown (RCL)), 49/21/4 (Barley Station Ltd), 49/18/8 (Cambricare NZ Ltd.), Request 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.

Submitter 49/47/4 (Queenstown Central Ltd.) also opposes the provisions as they do not specifically exempt restricted discretionary activities.

Submitter 49/32/10 (John Edmonds and Associates Ltd (JEA)) request that Council consider making applications for earthworks near a boundary an activity that cannot be notified in accordance with Rule 22.3.2.6.

Submitter 49/43/2 (Mount Farm Ventures Ltd) partly supports the provision at 22.3.2.6(a) but requests an amendments to add the following clause:

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

Submitter 49/54/11 (Te Anau Developments Ltd.) request that Rural Visitor Zones in proposed rule 22.3.2.6 (a) regarding non notification.

Submitter 49/35/2 (Kunath, Mark) request that all applications for new cleanfill facilities are publically notified because of the huge impact that the truck movements have on adjoining properties.

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

Queenstown Airport Corporation (QAC) also opposes all the following submissions:

49/1/11 49/46/FS
49/2/11 (FS16)
49/28/10 (FS17)
49/3/11 (FS18)
49/4/11 (FS19)
49/30/5 (FS20)
49/5/11 (FS21)
49/6/11 (FS22)
49/7/11 (FS23)
49/8/11 (FS24)
49/9/11 (FS25)
49/43/2 (FS26)
49/10/11 (FS27)
49/47/4 (FS28)
49/11/11 (FS29)
49/12/11 (FS30)
49/53/4 (FS31)
49/13/11 (FS32)
49/54/11 (FS33)
49/14/11 (FS34)

It is acknowledged that the submitter is raising genuine concerns over the possible effects of earthworks, and especially larger scale earthworks or bulk earthworks. However, the Obstacle Limitation Surfaces (OLS) cover a substantial two dimensional area, and the phrase “in the vicinity of” is vague.

Recommendation

Reject all – QAC submission / further submissions relating to notification

The non-notification provision is a deliberately liberal measure to reduce the complexity of consent as they relate to earthworks. That said it is considered that the range of applicability is reasonable as it stands. Where it is common practice to identify controlled activities as being non-notified, increasing this to encompass restricted discretionary activities and more zone specific activities would not be supportable.

Accept in part / reject in part – delete the provisions and replace with the following:

22.3.2.6 Non-notification of applications

Any application for resource consent for the following matters shall not require the written consent of other persons and shall not be notified or limited-notified:

- 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.
- Rule 22.3.3 i Volume of Earthworks in Tier 5 Zones (see Table 22.1), except where the site adjoins a Residential Zone, Open Space Zone or an Activity Area in a Special Zone for Residential or Open Space activities.
- Rule 22.3.3 i Volume of Earthworks in the Remarkables Park Zone.
- Earthworks and Bulk Earthworks in Ski Areas Subzones
- Any application for resource consent in respect of rule 22.3.3 (viii) Frankton - Cromwell Electricity Transmission Lines with the written approval of the tower owner.

5.8 Site standards

Landscape / volumes

Issues and discussions

Submitters 49/23/8 (Halfway Bay Station, Allendale Farm, and Greenvale Farm ('Halfway Bay'), 49/21/8 (Barley Station Ltd) , 49/25/8 (Royalburn Farm) Opposed by 49/31/FS27 Heritage New Zealand , 49/31/FS28 Heritage New Zealand 49/31/FS26 Heritage New Zealand - oppose the volume limits and request the volume limit specific to Outstanding Natural Landscapes, Outstanding Natural Features and Heritage Landscapes be deleted. HNZ considers it appropriate to retain the volume triggers in heritage landscapes.

Submitter 49/1/9 (Blackmans Creek Holdings No 1 LP) request 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.

Firstly, the confirmation of landscape lines is an ongoing part of the District Plan Review, shortly to be completed. As such it is appropriate to impose restrictions on earthworks in these sensitive areas. Similarly the Heritage New Zealand's opposition to the removal of restrictions in the heritage landscapes is assessed the same way, i.e., that is appropriate to retain such restrictions. It is acknowledged that there are possible alternatives to volume limits but none has been provided with any amount of justification by any submitter. It is also acknowledged that the areal limits of these landscapes is vast and makes up the dominant part of the district. Nonetheless, it is partly the scale and majesty of these features which requires such stringent limits on earthworks development within them.

With regards to defer the dates, this is not considered necessary as the confirmation works are already underway and the areas are generally understood. Deferring the dates may lead to a gold rush of activity which may have significant adverse effects on these important features.

Recommendation

Reject - retain the limits and references to the various landscapes.

Cut, fill and slope

Issues and discussion

Submitters 49/21/3 (Barley Station Ltd) opposed by 49/31/FS4 Heritage New Zealand and 49/18/4 (Cambricare NZ Ltd.) Opposed by 49/31/FS1 (Heritage New Zealand) request 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.

HNZ considers the volume triggers to be worthwhile in order to allow an assessment against heritage values where they exist. The use of volume controls is an acceptable and reasonable measure, it is accepted that there are possibly others, but none is provided or justified by any submitter.

Submitter 49/39/1 (McAuliffe Stevens Registered Architects) questions - 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).

The height 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 exceeded. It is not considered appropriate to make further amendments and allowances.

Submitter 49/30/6 (Glencoe Station Limited) request that Council amend 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.

Submitter 49/54/12 (Te Anau Developments Ltd.) 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.
- 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.

The particular difficulties with ski field operations is acknowledged and carries the important difference between it and general farming, in that the ski area sub zones are exempted from the landscape classification. Amendments to provide for a general exemption for ski field operations is include. A similar exemption for farm land in the district which is heavily overlaid with landscape restrictions will not be introduced.

To allow occasional minor repairs and maintenance within close proximity of the bed of any water body a trigger of 20m³ is imposed. In response to submission elsewhere in this report a quantifiable time limit is also to be added.

Earthworks within 7m of the bed of any water body shall not exceed 20m³ in total volume, within a 12 month period.

Submitter 49/40/3 (McLeod, Bruce) considers that with regard to 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.

The triggers are based on the receiving environment, and noting that the majority of rural land is within a landscape classification of some description, then the triggers are reasonably lower.

Submitter 49/32/9 (John Edmonds and Associates Ltd (JEA)) request 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)

Submitter 9/38/1 (McArthur, Ian) requests that Council 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.

The District Plan is not controlled by the same legislation as building consent and may impose its own rules. In the case of earthworks, physical and visual characteristics of the development are considered and regulated for. Building consent would only relate to the physical construction. Where NZ Standards are adopted, it is generally the wider ranging documents that are incorporated. It is understood that NZS 4229 deals specifically with Concrete Masonry Buildings (NZS 4229:2013 Not Requiring Specific Engineering Design).

The use of volume controls is an acceptable and reasonable measure. There are possibly others, but none is provided and justified by any submitter.

A more practical provision for steep slopes is sought but with no alternatives identified. Reasonably, the steeper the slope the more severe the cut (or fill) and the greater the impact.

The height 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 exceeded. It is not considered appropriate to make further amendments and allowances.

Recommendations

Reject in part – all requested amendments to controls of height of cut and fill, slope and volumes for the above reasons.

Accept in part – amendments requested to provide for the development and operation of ski fields, including exemptions to re-vegetate, as per Appendix 1.

Accept in part – amend the rule relating to water bodies as follows:

Earthworks within 7m of the bed of any water body shall not exceed 20m³ in total volume, within a 12 month period.

Utility based

Issues and discussion

Submitter 49/56/5 (Transpower New Zealand Ltd) oppose site standard 22.3.3 viii, 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.

Recommendation

Accept – delete the existing standard and replace as per the submission.

Residential

Issues and discussion

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

- 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.

300m³ is a significant increase for residential sites but this accords with information from the monitoring and consultation phase, which suggest this is appropriate. The protection of land forms will still be controlled, relative to general requirements of the underlying zone. It is acknowledge that altering the District Plan rules is likely to have effects across a number of areas and there may be instances where this alters a previous position regarding the existing or consented environment.

Submitter 49/38/2 (McArthur, Ian) supports increasing the cut and fill allowance onsite from 100m³ to 300m³ in the low density residential areas (Tier 3), as this allows for a basement to be dug into a slope.

This support is noted.

Recommendation

Reject in part / accept in part – retain the Tier 3 limit as proposed.

Rural

Issues and discussions

Submitter 49/40/4 (McLeod, Bruce) 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 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?

The Tier limits have been set with 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. It is acknowledged that given the vast scale of the landscapes within the district the limits are small, but that again reflects the sensitivity of the nationally important settings. The open space zones are identified through the Plan maps or may be shown within zones and subzones, and on structure plans.

Recommendations

Reject – no amendments required.

Issues and discussion

Submitter 49/37/1(Lemaire-Sicre, Roland and Keri) request that the present Rural General rule of 1,000m³ 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 300m³ to allowing 1,000m³.

The increase is in line with the need to both enable rural activities, and to control anticipated levels of effects. Site standards will continue to ensure that the effects against neighbours are limited.

Recommendation

Reject – no amendments required.

Issues and discussion

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

The intent of the rule is to identify triggers to consent requirements, by discrete zones, and reflects the purpose, objectives and policies of the chapter.

Rural visitor zones have elements of both the residential and commercial zones. As such it appropriate to have a staged approach to volumes to reflect this. Specifically, development is not anticipated at the levels of effects that would be associated with the activities in Tier 5.

Recommendations

Reject – no amendments are required.

Larger properties

Issues and discussion

Several submitters identify a possible alternative to the volume limits that apply to larger and rural properties, especially where the latter is retained in farm use. These include 49/41/7 (Mee, Mike), 49/36/7 (Lake Wakatipu Station Limited), 49/29/1 (Glen Dene Ltd.) and 49/15/2 (Coronet Estates Ltd, Wakatipu Retreat Ltd, Malaghans Park Ltd, and Arrowtown Downs Ltd) partly supported by 49/46/FS35 and FS36 (Queenstown Airport Corporation (QAC)) who request that further consultation may be required. Submitter 49/58/4 (Woodlot Properties) expands on this by offering limits for discussion as follows:

- 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

It is accepted that there could be a higher trigger limit for the larger properties that are not subject to landscape overlays, and also noting that would not apply to many sites within the district. The amendment to cater for these larger properties would align with the rural chapter and with the bulk earthwork's volume trigger.

Recommendations

Accept in part – amend Tier 6, table 22.1 by inserting the following:

Tier 6A - Rural General (except where classified as ONL, ONF, HL and on contiguous landholdings, in one ownership, of 100 hectares or more. 50,000m³).

General

Issues and discussion

Submitter 49/1/24 (Blackmans Creek Holdings No 1 LP) questions the “certainty” of the proposed provisions relating to the Special Zones in Table 22.1, Tiers 2, 3, 4, and 5

Special Zones are each described as to their purpose elsewhere in the plan so duplication is not necessary. This includes descriptions within those zones and includes activity areas. Inserting all these individual descriptions would partially defeat the aim of simplifying the provisions. It is considered that the current level of information is adequate.

Recommendation

Reject – no amendments required.

Hours of works - non rural areas

Issues and discussion

Submitter 49/1/8 (Blackmans Creek Holdings No 1 LP) request 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.

Noise limits for urban zones already exist where required and apply to all activities.

Recommendations

Reject – no amendment required

Linkages / cross reference

Issues and discussion

Submitter 49/57/8 (Trojan Holdings Ltd) 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 support is noted, and one amendment is requested:

- 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 volume triggers

This amendment is considered unnecessary as all ONL's are entirely within the Rural Zones.

Recommendations

Accept in part / reject in part – no amendments are required.

Issues and discussion

Submitters 49/1/7 (Blackmans Creek Holdings No 1 LP) and 49/28/7 (Gibbston Valley Station) opposes 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.

Volume is an acceptable and reasonable measure to adopt. It is acknowledged that there may be alternatives, such as area limits, or simply height of cut and fill, and some variety is found in other Plans. A tiered approach to triggers in a variety of receiving environments allows control over the anticipated effects through the district.

Recommendations

Reject – no amendments required.

Submitter 49/32/12 (John Edmonds and Associates Ltd (JEA)) request either deletion of Table 22.1 or amendments to make it unambiguous what areas are covered by the various tiers. Further, at 49/32/8 (John Edmonds and Associates Ltd (JEA)) request that Council 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. This is opposed by 49/31/FS and FS9 (Heritage New Zealand) as HNZ considers the volume triggers to be worthwhile.

It is acknowledged that there are possible alternatives to volume limits but none has been provided with any amount of justification by any submitter. As such, the volume approach is considered reasonable.

Recommendations

Reject – no amendments required.

Special Zones

Issues and discussion

Submitter 49/42/5 (Millbrook Country Club Ltd.) opposes the inclusion of maximum volumes of earthworks as it applies to the Millbrook part of the Resort Zone.

Volume triggers are considered to be an appropriate method of control, given the variety of possible outcomes within the Resort Zone. Millbrook currently has much less prescriptive measures than those others such as Jack's Point and it falls within the aim to achieve a district wide control over earthworks.

Recommendation

Reject – no amendments required

Issues and discussion

Submitter 49/43/1 (Mount Farm Ventures Ltd) partly supports the proposed provisions related to site standards in that an 'area threshold' will be not be introduced into the Bendemeer Special Zone; but request that 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 1,000m³.

Support is noted on the first point.

On the latter issue, the current provisions have an allowance of 1000m³ which is combined with relatively large and prescriptive density levels. Carrying this into the proposed provisions is not considered to be contrary to the anticipated levels of effects, with the caveat that it relates to the approved residential sections only.

Recommendation

Accept in part – amend Tier 6 to include Bendemeer Residential Sections

Issues and discussion

Submitter 49/1/25 (Blackmans Creek Holdings No 1 LP) request clarification as follows:

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.

The reference is to where the rules for that particular issue sit within the Plan, which then direct a user to the Appendix. This is considered to be appropriate.

Recommendation

Reject - no amendments required

Heritage

Issues and discussion

Submitter 49/31/5 (Heritage New Zealand) support rule 22.3.3(vi)(a) re cultural heritage and archaeological sites, and request its retention.

The support is acknowledged.

Recommendation

Accept – retain as proposed.

Issues and discussion

Submitter 49/32/15 (John Edmonds and Associates Ltd (JEA)) request 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.

Not all cultural heritage and archaeological sites within a District can be identified in any plan, but the requirement to avoid adverse effects on them will remain. Many are identified in the Inventory of Protected Features, others in the relevant Statutory Area legislation and others may referred to in iwi management plans.

Recommendation

Reject – no amendments required

iwi

Issues and discussion

Submitter 49/33/6 (Kai Tahu Ki Otago Ltd.) 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 lan adjacent to or within a Statutory Acknowledgement Area."

Recommendation

Accept – amend as requested – see Appendix 1.

It is also request that Council add a further site standard to Rule 22.3.3 (vi) Site Standards - Cultural Heritage and Archaeological Sites, in order to protect their heritage landscapes:

"(d) Earthworks shall not modify, damage or destroy heritage landscapes."

Given the scale of the heritage landscapes, this is not considered to be appropriate.

Reject - no amendments required.

Ski Areas

Issue and Discussion

Submitter 49/7/31 (Mt Cardrona Station Ltd.) oppose rule 22.3.2.2 and request Council amend this 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)."

Submitter 49/54/12 (Te Anau Developments Ltd.) request that Council:

- 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.

Submitter 49/57/2 (Trojan Holdings Ltd) 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.

Submitter 49/53/5 (Southern Hemisphere Proving Ground) opposes rule 22.3.3(ii)(a) re height of cut and fill and slope, and request modification to exclude earthworks and bulk earthworks occurring within a ski area subzone.

These are addressed in Rules (above, and recommendations regarding these rules are incorporated).

Water bodies

Issues and discussion

Submitter 49/44/9 (Otago Regional Council) request a time / frequency limit be attached to the 22.3.3.v, as currently there would be no control over this event occurring on a daily basis.

The volume of earthworks is subject to 22.3.3 I (b), stating that volumes of earthworks shall be calculated per site, within one consecutive 12 month period.

Recommendation

Reject – no amendments required.

Issues and discussion

Submitter 49/44/10 (Otago Regional Council) 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 'Exposure' (site standard 22.3.3 v (c)(i)) and 'or contaminate' be added in reference to protecting any ground water aquifer.

Recommendation

Accept – amend the rule 22.3.3 v (c)(i) to include:

- (i) Penetrate or contaminate any groundwater aquifer

Flood Defence

Issues and discussion

Submitter 49/54/7 (Te Anau Developments Ltd.) and 49/54/12 (second part) (Te Anau Developments Ltd.) request that Council:

- 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.
- 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).

The site standard on water bodies does allow that relatively small amount of earthworks is anticipated in such close proximity to a water body. Works in excess of this are rightly assessed as a discretionary activity due to the wide range of potential effects on the environment.

Recommendation

Reject – no amendments required.

Frankton Flats

Issues and discussion

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

These Areas are identified as industrial and larger retail (through the recently decided Plan Change 19) and are correctly identified as falling under Tier 5 controls.

Recommendations

Accept – no amendments required

Zone specific

Submitter 49/46/7 (Queenstown Airport Corporation) opposes the site standard and request that mixed Use Airport Zone be identified as a Tier 5 activity for earthworks within this zone.

The mixed use zone could be assessed separately depending on the prevalence of the activities within it, i.e., the majority activity, dictates the Tier. However, it would be simpler to accept that a mixed use, as long as it contains a substantial element of, commercial, business or industrial – to be include as Tier 5.

Recommendation

Accept - Amend to include, as per Appendix 1,

Issues and discussion

Submitter 49/46/8 (Queenstown Airport Corporation) supports rule 22.3.3. and requests its retention with a minor amendments to 22.3,3(iv)(b) to read

"..beyond the boundary and above the site".

This cannot be included in its present form as it is not measurable.

Recommendation

Reject – no amendments required

Issues and discussion

Submitter 49/54/4 (Te Anau Developments Ltd.) request that the General Rural 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 22,3,3(i)) to the Rural Visitor Zone

The variance between these receiving environments is dealt with under the rules section and recommendations are made there.

5.9 Assessment matters

General

Issues and discussion

Submitter 49/32/16 (John Edmonds and Associates Ltd (JEA)) 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.

An introductory paragraph could be included but the relationship to other provisions is considered self-explanatory. In the other requests these are all considered to be appropriate matters for assessment. Specifically, in relation to where the assessment matters apply, they do apply equally to all zones. For cleanfill, assessing whether the material is within the accepted criteria is vital to the understanding of the effects of any application.

Recommendation

Reject – no amendments required.

Relationship to zones

Issues and discussion

Several submitters raise the relationship of the assessment matters to the specific and individual zones in which their interests lie (49/1/4 (Blackmans Creek Holdings No 1 LP), 49/28/4 (Gibbston Valley Station), 49/21/6 (Barley Station Ltd) and 49/18/6 (Cambricare NZ Ltd)). 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 understood that combining the earthworks provisions into a single chapter means that the receiving environment of the entire district is being addressed as opposed to the individual zones. The recommendations earlier in this report would see some slight adjustment of the objectives and policies regarding these matters. It is considered that there is adequate emphasis within the proposed provisions detailing where rural areas, or landscapes are the priority. 22.4 (iv) as proposed allows the assessment in sufficient detail against any receiving environment.

Recommendation

Reject – no amendments or inclusions required.

Environmental Protection Measures

Issues and discussion

Submitter 49/1/26 (Blackmans Creek Holdings No 1 LP) requests the following amendments to the assessment matters:

Delete - "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.

The assessment matters are now recommended to be reworded in response to other submission points raised with regard to the clarity of the environmental protection measures. The resulting recommended amendments will coincidentally address the issues raised.

Recommendation

Accept in part - combine with other submitted amendments. The assessment matter will be replaced with the following:

Environmental Protection Measures

Whether, and to what extent proposed sediment and erosion control techniques are adequate to ensure sediment remains on-site.

Whether appropriate measures to control dust emissions are proposed, including from associated transport on and off the site.

Whether the earthworks will adversely affect stormwater and overland flows, and create adverse effects off-site.

Hours of operation, including whether the activity will generate noise and vibration effects, which detract from the amenity values of the surrounding area.

Choice of operator

Issues and discussion

Submitter 49/1/27 (Blackmans Creek Holdings No 1 LP) request 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.

This is agreed. The choice of contractor is not within the scope of this plan change.

Recommendation

Agreed – the following is deleted:

~~(f) Whether the applicant / operator has a track record of good practice on site and any opportunities to promote good practice on site.~~

Archaeology

Issues and discussion

Submitter 49/1/28 (Blackmans Creek Holdings No 1 LP) requests that 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 (consent) 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.

This is opposed in part by 49/31/FS30 (Heritage New Zealand) who request 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) RMA is a matter of national importance. Council is obligated to provide for its protection. Whilst there is no wish for duplication, the two consent processes are not mutually inclusive.

The submitters approach to impose a standard condition would make any resource consent, if granted, dependant on obtaining a further consent, which is believed to be *ultra vires* for Council. Obtaining an Archaeological Authority involves a decision making process, it can be granted (with conditions) or refused, and is appealable to the Environment Court. Such a condition is also unnecessary as it is a requirement of that Act, and more usefully, an advice note can be attached to any resource consent as a reminder.

The assessment matter is not a requirement to obtain an authority, but acknowledges that if one has been obtained, a detailed assessment of the level of effects on archaeology will have been produced. That Authority may allow investigation or even removal (destruction) of the archaeological feature, usually subject to detailed investigations. This would greatly inform the processing of any resource consent. If it were a requirement it would be included as a standard.

Council may rightly and necessarily impose conditions, especially as the process under the HNZPTA does not include matters unrelated to archaeology, such as public interest / notification, effects on neighbours, etc, etc.

Recommendation

Reject – no amendments required in response to this submission point.

Heritage

Issues and discussion

Submitter 49/31/6 (Heritage New Zealand) 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 updating of the submitters organisation name is accepted through the document.

The latter point addresses those sites that are not necessarily archaeological or within heritage landscapes. Heritage building and structures are likely to be susceptible to the removal of ground support more so than modern buildings due to a possible lack of control of strength of footing.

Recommendations

Accept and amend the reference to NZHPT to Heritage New Zealand.

Accept and include a new assessment matter as follows:

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".

Iwi

Issues and discussion

Submitter 49/33/7 (Kai Tahu Ki Otago Ltd.) request that "spiritual and historic" associations are added to 22.4 vii (b) to expand the scope of the connections. This can be accommodated to clarify the iwi's interests.

Recommendation

Accept – include the following amendments:

"(b) The extent to which the activity affects Ngai Tahu's cultural, spiritual, historic, and traditional association with the Statutory Acknowledgment Area."

Issues and discussion

Submitter 49/44/8 (Otago Regional Council) request that Council expands the assessment matters for water bodies to include effects on the natural character of water bodies. This can be accommodated and will enhance the provisions.

Recommendation

Accept – include new assessment matter as follows:

The effects of earthworks on the natural character of wetlands, lakes and rivers and their margins

General

Issues and discussion

Submitter 49/52/8 (Shotover Park Ltd.) request that Council reduce the number of assessment matters. This has been given attention through individual matters raised in more specific submissions and has led to some reductions, but also some additions are required.

Recommendation

Accept in part – reductions will be recommended where appropriate.

Ski areas

Issues and discussion

Submitters 49/54/13 (Te Anau Developments Ltd) and 49/26/27 (Cardrona Alpine Resort) question whether the assessments matters for ski area subzones are realistically required to be sympathetic to natural topography.

Practically, the ski areas have been identified with the anticipation of that activity occurring on a long term basis. This is entirely likely to result in a the creation of effects that are 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.

However, as the provisions for ski are subzones are to be amended to mainly exempt earthworks related to operational areas, access and trails, this is not thought to impact on those areas, although it will be retained for all other uses.

Recommendations

Accept in part – add the following note:

Note: Ski Area Subzones are exempt from these landscapes.

Issues and discussion

Submitter 49/46/9 (Queenstown Airport Corporation) partly supports the retention of the proposed assessment matters but requests 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. The submitter also request the retention of assessment matter 22.4 (ii) regarding environmental protection measures as drafted. The request is made to retain 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.

The latter point is valid, given the sensitivity of aircraft to this potential hazard.

Recommendation

Accept in part – and amend as follows:

(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 overhead aircraft.

5.10 Definitions

Issues and discussion

Submitter 49/31/7 (Heritage New Zealand) request 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

This is considered a useful addition for clarification and mirrors the appropriate legislation.

Recommendation

Accept – add a new definition as follows:

ARCHAEOLOGICAL SITE	<p>means:</p> <p>any place in NZ, including any building or structure (or part of a building or structure), that –</p> <ul style="list-style-type: none"> (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
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Duplication of definitions

Issues and discussions

Submitter 49/1/29 (Blackmans Creek Holdings No 1 LP) questions 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 inclusion or reference to definitions elsewhere is a matter of balance. The Plan needs to be user friendly, to contain sufficient informative details for external users and Council staff. It is acknowledged that further definitions could be included, but also in a desire to make the Plan more user friendly, some definitions and explanations will need to be included at Council's discretion.

Recommendations

Reject – no amendments required

Cleanfill and general

Issues and discussion

Submitter 49/32/17 (John Edmonds and Associates Ltd (JEA)) has requested that Council delete the definition of clean fill 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.

Recommendation

The inclusion of provisions relating to cleanfill has in response to an identified gap in the coverage of effects between the district and regional council, in consultation with the regional council. Definitions are in line with the MFE guidance and are considered appropriate for inclusion. More generally, definitions are included for clarity and readability and a balance should be achieved between the level of detail, or brevity, and the need to allow users of the Plan to be able to prepare or interpret applications without undue reference elsewhere. The RMA does not include an exhaustive list of definitions, and Council will refer to RMA definitions, and other legislation and documents where appropriate.

Recommendation

Reject – no amendments required

Trees and landscaping

Issues and discussion

Submitters 49/35/1 (Kunath, Mark), 49/50/7 (Remarkables Park Ltd.), 49/52/7 (Shotover Park Ltd.), 49/36/4 (Lake Wakatipu Station Limited), 49/41/4 (Mee, Mike), 49/15/5 (Coronet Estates Ltd, Wakatipu Retreat Ltd, Malaghans Park Ltd, and Arrowtown Downs Ltd.) request that Council retains the existing definition of earthworks as it relates to the a) planting of trees and b) landscaping.

There does not seem to be any compelling reason to specifically narrow the exclusion to indigenous trees (vegetation). The effects from the earthworks would be the same regardless of species. For the two submissions that reference landscaping, it is noted that this is not explicitly excluded in the existing, or proposed provisions.

Recommendations

Accept in part - and amend 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 excludes the cultivation of land, planting of <u>trees</u> Indigenous Vegetation , Mining Activities and Cleanfill Facilities.
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Reject – amending the inclusion of an exemption for “landscaping”.

Mining and quarrying

Issues and discussion

Submitter 49/57/9 (Trojan Holdings Ltd) 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.

This is noted, and the definition will retain these exclusions.

Recommendations

Accepted – the definition is retained as it relates to these matters.

5.11 Pro-forma Submissions

The following submission points all relate to pro-forma submissions. All recommendations of this report refer to these submission points as they are discussed in the main body of the report. This includes the further submissions which are also addressed within each individual submission point.

49/2/1-30	Coronet View Holdings Ltd		Refer to points 1 - 30 of Blackmans Creek Holdings No 1 LP
49/3/1-30	Glencoe Land Development Company Ltd.		Refer to points 1 - 30 of Blackmans Creek Holdings No 1 LP
49/4/1-30	Glencoe Station Ltd.		Refer to points 1 - 30 of Blackmans Creek Holdings No 1 LP
49/5/1-30	Jacks Point Residents and Owners Association Inc.		Refer to points 1 - 30 of Blackmans Creek Holdings No 1 LP
49/6/1-30	Lake's Edge Developments Ltd.		Refer to points 1 - 30 of Blackmans Creek Holdings No 1 LP
49/7/1-30	Mt Cardrona Station Ltd.		Refer to points 1 - 30 of Blackmans Creek Holdings No 1 LP
49/8/1-30	Mt Christina Ltd.		Refer to points 1 - 30 of Blackmans Creek Holdings No 1 LP
49/9/1-30	Parkins Bay Preserve Limited		Refer to points 1 - 30 of Blackmans Creek Holdings No 1 LP
49/10/1-30	Pisidia Holdings Ltd.		Refer to points 1 - 30 of Blackmans Creek Holdings No 1 LP
49/11/1-30	Queenstown Corporation Ltd.		Refer to points 1 - 30 of Blackmans Creek Holdings No 1 LP
49/12/1-30	Real Journeys Limited		Refer to points 1 - 30 of Blackmans Creek Holdings No 1 LP
49/13/1-30	Stewart, Robert		Refer to points 1 - 30 of Blackmans Creek Holdings No 1 LP
49/14/1-30	Treble Cone Investments Limited		Refer to points 1 - 30 of Blackmans Creek Holdings No 1 LP
49/22/1-7	Glentui Heights Ltd.		Refer to points 1 - 7 of Barley Station Ltd
49/31/FS5 (49/22/3)	<i>Heritage New Zealand</i>	<i>Oppose</i>	<i>HNZ considers the volume triggers to be worthwhile.</i>

49/23/1-7	Halfway Bay Station, Allendale Farm, and Greenvale Farm ('Halfway Bay')		Refer to points 1 - 7 of Barley Station Ltd
49/31/FS6 (49/23/3)	<i>Heritage New Zealand</i>	<i>Oppose</i>	<i>HNZ considers the volume triggers to be worthwhile.</i>
49/24/1-7	R Monk and Cook Adam Trustees Ltd.		Refer to points 1 - 7 of Barley Station Ltd
49/31/FS7 (49/24/3)	<i>Heritage New Zealand</i>	<i>Oppose</i>	<i>HNZ considers the volume triggers to be worthwhile.</i>
49/25/1-7	Royalburn Farm		Refer to points 1 - 7 of Barley Station Ltd
49/19/1-8	Challenge Manawatu Ltd.		Refer to points 1 - 8 of Cambricare NZ Ltd.
49/31/FS2 (49/19/4)	<i>Heritage New Zealand</i>	<i>Oppose</i>	<i>HNZ considers the volume triggers to be worthwhile.</i>
49/20/1-8	IHG Queenstown Ltd and Carter Queenstown Ltd.		Refer to points 1 - 8 of Cambricare NZ Ltd.
49/31/FS3 (49/20/40)	<i>Heritage New Zealand</i>	<i>Oppose</i>	<i>HNZ considers the volume triggers to be worthwhile.</i>
49/16/1-7	QTN Farm Ltd		Refer to points 1 - 7 of Coronet Estates Ltd, Wakatipu Retreat Ltd, Malaghans Park Ltd, and Arrowtown Downs Ltd.
49/31/FS12 (49/16/6)	<i>Heritage New Zealand</i>	<i>Oppose</i>	<i>The requirement for resource consents for larger volume earthworks for tracks and trails provides an opportunity to assess effects on heritage values.</i>
49/31/FS13 (49/16/7)	<i>Heritage New Zealand</i>	<i>Oppose</i>	<i>The requirement for resource consents for larger volume earthworks for tracks and trails provides an opportunity to assess effects on heritage values.</i>
49/46/FS36 (49/16/2)	QAC	<i>Supports</i>	<i>Supports the sliding scale approach but request that further consultation is carried out.</i>
49/17/1-7	Remarkables Park Stud Farm Ltd		Refer to points 1 - 7 of Coronet Estates Ltd, Wakatipu Retreat Ltd, Malaghans Park Ltd, and Arrowtown Downs Ltd.

<i>49/31/FS14 (49/17/6)</i>	<i>Heritage New Zealand</i>	<i>Oppose</i>	<i>The requirement for resource consents for larger volume earthworks for tracks and trails provides an opportunity to assess effects on heritage values.</i>
<i>49/31/FS15 (49/17/7)</i>	<i>Heritage New Zealand</i>	<i>Oppose</i>	<i>The requirement for resource consents for larger volume earthworks for tracks and trails provides an opportunity to assess effects on heritage values.</i>
<i>49/46/FS37 (49/17/2)</i>	<i>QAC</i>	<i>Supports</i>	<i>Supports the sliding scale approach but request that further consultation is carried out.</i>

6.0 SECTION 32 – FURTHER EVALUATION

Under Section 32AA RMA, a further evaluation is required only for any changes that have been made to, or are proposed for, the proposal since the evaluation report for the proposal was completed (*the changes*). Changes and consequential changes are now proposed since the Section 32 Report was made, so a further evaluation is required, commensurate with the scale and significance of the changes.

In considering the Section 32, the following are noted;

- In the evaluation (page 26 onwards) against the RMA provisions, no change to the table is considered to be required. Although there are proposed changes to several of the provisions, there is no deviation from the findings which are still considered robust.
- In a consideration against the Objectives, it is noted that the format is altered, but the intentions remain much the same. As such the efficiency and effectiveness is likely to be improved and so no further reevaluation is required.
- For the remainder of the provisions and how they support the Objectives, a similar improved is anticipated, with the benefit of the submission received, which have resulted in a number of minor changes.

APPENDIX 1

Proposed Amendments

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 typically precedes 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 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 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 Plans. Where the provisions refer to aquifers, reference should be made to the Otago Regional Council Water Plan maps. Four main

aquifers are noted - Hawea Basin, Wanaka Basin, Cardrona alluvial ribbon, Wakatipu Basin and other lesser aquifers also need to be considered.

22.2 Objectives and Policies (revised)

Objective 1

Enable earthworks that are part of subdivision, development, and access, provided that they are undertaken in a way that avoids, remedies or mitigates adverse effects on communities and the natural environment.

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 and mitigate adverse effects of earthworks.

1.3 Require remedial works and re-vegetation to be implemented in a timely manner.

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

Objective 2

Protect rural landscapes and visual amenity areas from the adverse effects of earthworks where practicable.

2.1 Avoid effects of earthworks from inappropriate development on Outstanding Natural Features, Outstanding Natural and Heritage Landscapes.

2.2 Avoid adverse visual effects of earthworks on visually prominent slopes, natural landforms and ridgelines, where practicable.

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.

Objective 3

Ensure earthworks do not adversely impact on the stability of land, adjoining sites or exacerbate flooding.

3.1 Ensure earthworks, in particular, - cut, fill and retaining, - do not impact on the stability of adjoining sites.

3.2 Ensure earthworks do not cause or exacerbate flooding, and avoid, remedy or mitigate the effects of de-watering.

3.3 Avoid earthworks, including tracking, on steeply sloping sites and land prone to erosion or instability, where practicable. Where it cannot be avoided, ensure techniques are adopted that minimise the potential to decrease land stability.

Objective 4

Enable earthworks in rural areas that improve the efficiency, safety, economic viability of farming operations, and public recreation.

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 public recreation, where practicable.

Objective 5

Enable the development and operation of ski-fields within Ski Area Sub-Zones.

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.

6.1 Avoid the location of earthworks in close proximity to water bodies, where practicable. Where this cannot be avoided, ensure that sediment control techniques are put in place to avoid sediment run-off.

6.2 Avoid earthworks contaminating or penetrating water aquifers, including Hawea Basin, Wanaka Basin, Cardrona alluvial ribbon and Wakatipu Basin aquifers.

Objective 7

Protect cultural heritage, including waahi tapu, waahi taonga, archaeological sites and heritage landscapes from the adverse effects of earthworks.

7.1 Ensure that iwi are consulted regarding earthworks that may affect sites of significance to Maori, including Statutory 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 sites in close proximity.

Objective 8

Provide for cleanfill capacity on appropriate sites and promote diversion of cleanfill material from landfills.

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) Statutory Acknowledgement

(ii) Rural (Section 5 and Appendix 5 for Significant Indigenous Vegetation and habitat of Indigenous Fauna)

(iii) Heritage (Section 13 and Appendix 10 for heritage landscapes)

(iv) Transport (Section 14)

(v) Subdivision (Section 15)

(vi) Hazardous Substances (Section 16)

(vii) Utilities (Section 17)

(viii) Relocated Buildings and Temporary Activities (Section 19)

(b) Some Earthworks may also require consents under the Regional Plan provisions. As such, users of this Plan are advised to consult Otago Regional Council documentation when considering their projects.

ii Subdivision

(a) The rules in Section 22 do not apply to earthworks;

(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.

iii Noise

(a) Noise generated by earthworks activities is to be in accordance with the NZ Construction Noise Standard (refer to NZS 6803:1999).

iv Archaeological Sites

(a) All archaeological sites within the District are protected from modification, damage or destruction through the Heritage New Zealand Pouhere Taonga 2014. They also defined within "historic heritage" in Section 2 of the Resource Management Act 1991. All earthworks must also comply with the Heritage New Zealand Pouhere Taonga 2014, which protects recorded, suspected and unrecorded archaeological sites from destruction, damage and modification. In addition to resource consent for earthworks, an archaeological authority (a consent) may need to be applied for, from the Heritage New Zealand.

(b) 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. Additionally some sites are identified in District Plans.

(c) Any development affecting an archaeological site (or any other item in the Inventory of Protected Features at Appendix 3) is also subject to the Rules in Section 13 of this Plan.

v 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 has been, is more likely than not to have been or is currently operating"*.

vi QLD Earthworks Guideline

(a) Reference should also be made to the Queenstown Lakes District Earthworks Guideline to assist in the achievement of the following standards and best practice.

22.3.2 Activities

22.3.2.1 Permitted Activities

Earthworks are defined in Section D (definitions).

(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 earthwork activities are exempt from Rule 22.3.3(i) Volume of earthworks, and 22.3.3(ii) Height of cut and fill and Slope:

(i) Earthworks associated with the maintenance of farm track access, fencing, firebreaks, public recreational tracks, and provided that the maintenance work results in less than a 10% increase in exposed surface area of that feature in any 10 year period.

(ii) Earthworks associated with the replacement and/or removal of a fuel storage system as defined and controlled in the 'National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health Regulations 2011'.

(iii) In the Remarkables Park Zone, earthworks approved as part of:

a. Any building granted a resource consent pursuant to Rule 12.11.3.2 (i).

b. Any activities which are listed as controlled activities and have been granted resource consent.

(c) In the **Ski Area Sub-Zones**, the following **exemptions** apply:

(i) Volume of earthworks, cut and fill heights and slope, for both earthworks and bulk earthworks, for the establishment and maintenance of trails, operational areas and access within the Ski Area Sub zones.

22.3.2.2 Controlled Activities

- (a) The following shall be **Controlled Activities** provided they are not listed as a **Permitted, Restricted, Discretionary, Non-Complying** or **Prohibited Activity** and they comply with all the relevant Site Standards.
- (b) In the **Jacks Point Zone**, earthworks associated with golf course development, that exceeds 1,000m³ in volume at any time.
- (c) The matters in respect of which Council has reserved control 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.
 - (ix) The effects of earthworks on the natural character of wetlands, lakes and rivers and their margins
- (d) 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 additional matters that Council has reserved being:
 - (i) Location of trails and viewing platforms.

- (ii) Size of viewing platforms and boardwalks.
- (iii) Cumulative effect of 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.
- (c) 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)."

22.3.2.4 Discretionary Activities

The following are **Discretionary Activities**, provided they are not listed as **Permitted, 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 (see definitions).

Bulk Earthworks

- (b) Earthworks with a total volume of over 50,000 cubic metres. The maximum total volume of earthworks shall be calculated per site, within one consecutive 12 month period.

Jacks Point Zone

- (c) In the Jacks Point Zone, earthworks which are not associated with a subdivision, the construction, addition or alteration of any building, or golf course development, **and** do not comply with the site standards for earthworks.

22.3.2.5 Non-complying Activities

The following are **Non-Complying Activities**, providing that they are not listed as **Permitted, Restricted Discretionary, Discretionary or Prohibited Activities**.

Cleanfill Material

- (a) The introduction of any other material than that detailed in Rule 22.3.2.4 into a cleanfill facility, or any other earthworks, under this Plan.

Open Space Zones

- (b) Earthworks not associated with the creation of cycling or walking trails as provided for in Rule 20.2.2.2(ii).

22.3.2.6 Non-notification of applications

- (a) Any application for resource consent for the following matters shall not require the written consent of other persons 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) Rule 22.3.3 i Volume of Earthworks in Tier 5 Zones (see Table 22.1), except where the site adjoins a Residential Zone, Open Space Zone or an Activity Area in a Special Zone for Residential or Open Space activities.

- (iii) Rule 22.3.3 i Volume of Earthworks in the Remarkables Park Zone.
- (iv) Earthworks and Bulk Earthworks in Ski Areas Subzones
- (v) Any application for resource consent in respect of rule 22.3.3 (viii) Frankton -Cromwell Electricity Transmission Lines with the written approval of the tower owner.

22.3.3 Site Standards

i Volume of Earthworks

The maximum total volume of earthworks (m³) 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, Gibbston Character

- (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 0.5m in height.

iii Fill

- (a) All fill for residential building platforms and associated retaining walls is to be in accordance with the requirements of NZS 4404:2010 and NZS 4431:1989 as appropriate.

iv Environmental Protection Measures

- (a) Effective sediment and erosion control measures are to be implemented.**
- (b) Effective dust control measures are to be implemented.**
- (c) Areas of exposed soil are to be vegetated / re-vegetated within 12 months from the completion of works (except in the Ski Area Subzones).

Table 22.1

Tier	Zones	Maximum Total Volume
Tier 1	Residential Arrowtown Historic Management Zone Arrowtown Town Centre Town Centre Special Character Areas Townships – Makarora, Glenorchy, Kingston, Kinloch Makarora Rural Lifestyle Zone	100m ³
Tier 2	Outstanding Natural Landscapes Outstanding Natural Features Heritage Landscapes Open Space Zone Special Zone Activity Areas that relate to the provisions of Open Space Activity	200m ³
Tier 3	Low Density Residential High Density Residential (Subzone C) Townships – Hawea, Luggate and Albert Town Special Zone Activity Areas that relate to the provision of Low Density Residential Activity	300m ³
Tier 4	High Density Residential (Subzones A and B) Special Zone Activity Areas that relate to the provision of Medium and High Density Residential Activity Rural Residential Rural-Lifestyle (except Makarora) Rural Visitor Zones Special Zone Activity Areas that relate to the provision of Visitor Accommodation, Rural Residential and Rural-Lifestyle Activity	400m ³
Tier 5	Business and Industrial Zones Ballantyne Road Mixed Use Zone Town Centre Zones (except Arrowtown and Special Character Areas) Special Zone Activity Areas that relate to the provision of Commercial, Business and Industrial Activity	500m ³
Tier 6	Rural General (except where classified as Outstanding Natural Landscape, Outstanding Natural Feature or within a Heritage Landscape, or in an area containing significant indigenous vegetation (refer Section 5.3.5.1(v))) Gibbston Character Zone Bendemeer Residential Sections	1000m ³
Tier 6A	Rural General (except where classified as ONL, ONF, HL and on contiguous landholdings, in one ownership, of 100 hectares or more)	50.000m ³
Tier 7	Any zone or Special Zone Activity Area not listed above in Tier 1 to 6 Except for Ski Area Sub-Zones (refer Rule 22.3.2.1(c)(ii))	100m ³

v Water bodies

- (a) Earthworks within 7m of the bed of any water body shall not exceed 20m³ in total volume, within a 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) Penetrate or contaminate any groundwater aquifer;
 - (ii) cause artificial drainage of any groundwater aquifer;
 - (iii) 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, or in the Kai Tahu ki Otago or Te Ao Marama Incorporated Natural Resource Management Plan.
- (b) Earthworks shall not affect Ngai Tahu's cultural, spiritual historic and traditional association with land adjacent to or within a Statutory Acknowledgment Area (see Section 3).
- (c) In the Rural General Zone, earthworks within areas identified as Ngai Tahu Statutory Acknowledgment Areas shall not exceed 20m³ 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".

- (b) This Standard covers sound from construction work which is of a limited duration. 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 Frankton-Cromwell Electricity Transmission Lines

- (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.

22.4 Resource Consents – 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 sites 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 Rural areas and Ski Area Sub-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.
- (h) Within Ski Area Sub-Zones, the improvements to trails, accessibility of terrain, and safety.

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 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:
 - (i) the visual quality and amenity values of the landscape;
 - (ii) the natural landform of any ridgeline or visually prominent areas;
 - (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 existing landscapes.
- (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.

Note: Ski Area Subzones are exempt from these landscapes.

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 the Statutory Acknowledgment Area.
- (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".

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 overhead aircraft.
- (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) The source and type of cleanfill material.
- (b) The suitability of the topography for cleanfill development and whether the site has been demonstrated to be stable.
- (c) Whether location of a new cleanfill facility meets the criteria in 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) Use of legal instruments such as a bond to ensure work is completed.

APPENDIX 2

Further Submissions

49/46/FS
1-40

SUBMISSION FORM 6

**CLAUSE 8 OF FIRST SCHEDULE, RESOURCE MANAGEMENT ACT 1991
FURTHER SUBMISSION IN SUPPORT OF OR IN OPPOSITION TO SUBMISSIONS ON
PUBLICLY NOTIFIED PROPOSED PLAN CHANGE 49 TO THE QUEENSTOWN LAKES
DISTRICT PLAN 2014**

To: Queenstown Lakes District Council
Private Bag 50077
QUEENSTOWN

Submission on: Proposed Plan Change 49 Earthworks

Name: Queenstown Airport Corporation ('QAC')

Address: PO Box 2641
Queenstown
(Note different address for service)

1. These further submissions are in support of or in opposition to submissions on Proposed Plan Change 49 Earthworks to the Queenstown Lakes District Plan.
2. QAC is a person who has an interest in the proposed plan change that is greater than the interest the general public has.
 - As explained in QAC's original submission, Queenstown Airport is the main Airport in the Queenstown Lakes District and is the take-off and landing point for much of the aircraft activity in the District.
 - Wanaka Airport accommodates aircraft movements associated with scheduled, general aviation and helicopter operations and is a major provider of commercial helicopter operations within the District.
 - QAC is a large employer both directly and indirectly in the Queenstown Lakes District and contributes significantly to the economy of the region.
 - In light of the above, QAC considers it has an interest in this Plan Change that is greater than the interest the greater public has, by virtue of existing airports within the District.
 - QAC therefore makes the following further submissions pursuant to clause 8 of the First Schedule to the RMA.
3. QAC will not gain an advantage in trade competition through these further submissions.

4. **Further Submissions**

QAC's further submissions on the Proposed Plan Change 49 Earthworks is attached as **Attachment 1**.

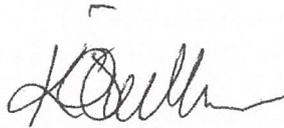
5. QAC does wish to be heard in relation to this submission.

6. If others make a similar submission QAC will consider presenting a joint case with them at a hearing.

7. QAC seeks the following decision from the Queenstown Lakes District Council:

- a) That the relief sought and/or amendments (or those with similar or like effect) outlined in Table 1 be accepted;
- b) Such further or other relief as is appropriate or desirable in order to take account of the matters expressed in this submission.

Signature:



By its authorised agent Kirsty O'Sullivan, on behalf of the Queenstown Airport Corporation

Date: 8th October 2014

Address for service: Queenstown Airport Corporation
C/- Mitchell Partnerships
PO Box 489
DUNEDIN

Attn: Kirsty O'Sullivan

Telephone: (03) 477 7884

Email: kirsty.osullivan@mitchellpartnerships.co.nz

ATTACHMENT 1

Further Submissions

FURTHER SUBMISSIONS ON PLAN CHANGE 49 OF THE QUEENSTOWN LAKES DISTRICT PLAN
IN ACCORDANCE WITH CLAUSE 8 OF THE FIRST SCHEDULE OF THE RESOURCE MANAGEMENT ACT 1991

Queenstown Airport Corporation (QAC)

8th October 2014

Submitter	Sub Id	Provision	Relief Sought	Position	Reasoning
Blackman Creek Holdings.	49/1/19	Rule 22.3.1.ii(a)	Include a specific exemption for earthworks association with the construction of a house within an approved residential building platform.	Oppose in Part.	QAC submits that it is appropriate for environmental protection measures (commensurate to the scale of earthworks) to be undertaken on all sites located beneath the Airport Approach and Land use Controls Designation for Queenstown and Wanaka Airports (Designations D.3 and E.2 respectively). Such measures (including the suppression of dust and the appropriate management of heavy machinery relative to the OLS) will ensure that the safety of overhead aircraft is maintained.
Coronet View Holdings Ltd.	49/2/19				
Glencoe Land Development Company Ltd.	49/3/19				
Glencoe Station Ltd.	49/4/19				
Jacks Point residents and Owners Association Inc.	49/5/19				
Lake's Edge Developments Ltd.	49/6/19				
Mt. Cardrona Station Ltd.	49/7/19				
Mt. Christina Ltd.	49/8/19				
Parkins Bay Preserve Ltd	49/9/19				
Pisidia Holdings Ltd.	49/10/19				
Queenstown Corporation Ltd.	49/11/19				
Real Journeys Ltd.	49/12/19				
Stewart, Robert.	49/13/19				
Treble Cone Investments Ltd.	49/14/19				
Blackman Creek Holdings.	49/1/11	Rule 22.3.2.6	These submissions sought a range of exceptions to Rule 22.3.2.6 regarding the non-notification of earthworks consents.	Oppose in part.	QAC opposes these submissions in part.
Coronet View Holdings Ltd.	49/2/11				
Gibbston Valley Station	49/28/10				
Glencoe Land Development Company Ltd.	49/3/11				
Glencoe Station Ltd.	49/4/11				
Jacks Point residents and Owners Association Inc.	49/30/5				
Lake's Edge Developments Ltd.	49/5/11				
Mt. Cardrona Station Ltd.	49/6/11				
Mt. Christina Ltd.	49/7/11				
Mount Farm Ventures Ltd.	49/8/11				
Parkins Bay Preserve Ltd.	49/9/11				
Pisidia Holdings Ltd.	49/43/2				
Queenstown Central Ltd.	49/10/11				
Queenstown Corporation Ltd.	49/47/4				
Real Journeys Ltd.	49/11/11				
Southern Hemisphere Proving	49/12/11				
	49/53/4				
	49/13/11				

<p>Ground, Stewart, Robert. Te Anau Developments Ltd. Treble Cone Investments Ltd.</p>	<p>49/54/11 ³³ 49/14/11 ³⁴</p>				<p>QAC supports these submissions and considers that a sliding scale approach to earthwork volumes would recognize and provide for larger landholdings.</p> <p>QAC submits however, that further consultation may be required to determine how best to achieve the relief sought by the original submitter and how to control the sliding scale of earthworks.</p> <p>QAC supports this submission in part.</p> <p>QAC supports the proposed redrafting of the environmental protection measures to ensure they are measurable and precise, however QAC does not support there outright removal from Plan Change 49.</p> <p>QAC submits that it appropriate for all earthworks undertaken beneath the Queenstown and Wanaka Airport OLS designations to have environmental protection measures in place to ensure that flight paths and aircraft safety are not adversely effected by earthwork activities. QAC therefore submits that it is necessary for any amendments to the environmental protection measures outlined in Section 22.3.3(iv) and the subsequent Assessment Matters in Section 22.4 to appropriately manage earthwork activities, including the potential for dust plumes and heavy machinery/plant to breach the Queenstown and Wanaka Airport OLS.</p>
<p>Coronet Estates Limited, Wakatipu Retreat Ltd, Malaghans Park Ltd and Arrowtown Downs Ltd. QTN Farm Ltd. Remarkables Park Stud Farm Ltd. Lake Wakatipu Station Ltd.</p>	<p>49/15/2 ³⁵ 49/16/2 ³⁶ 49/17/2 ³⁷ 49/36/7 ³⁸</p>	<p>These submitters sought 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.</p>	<p>Site Standards.</p>	<p>Support.</p>	
<p>John Edmonds and Associates Ltd (JEA).</p>	<p>49/32/13 ³⁹ 49/32/15 ⁴⁰</p>	<p>Remove or refine the wording with respect to Environmental Protection Measures when listed as matters of control or discretion.</p>	<p>Rules – Levels of Activities Site Standards</p>	<p>Support in part.</p>	

49/31/As ~~1-30~~
1-30

Appendix A: Heritage New Zealand Further Submission: Plan Change 49 - Earthworks, Queenstown Lakes District Plan

Key:
Strike eg. ~~abc~~ = delete text
Underline eg. abc = additional text

Submission	Support/Oppose	Comments
<p>1 2 3 4 5 6 7 8 9</p> <p>49/18/4 49/19/4 49/20/4 49/21/3 49/22/3 49/23/3 49/24/3 49/32/8 49/32/12</p>	Oppose	<p><u>Earthworks Volumes</u></p> <p>Proposed Objective 6 recognises that earthworks may have adverse effects on cultural and heritage values and that cultural and heritage values should be protected from such adverse effects. Any amount of earthworks has the potential to disturb archaeological sites, although in areas where there is likely to be a greater concentration of sites, large scale earthworks have the potential to affect more sites. Heritage New Zealand therefore considers it is appropriate to retain control over earthworks volumes so as to capture any situations where large-scale earthworks would not trigger any of the other relevant standards. It is acknowledged that this might only occur occasionally but Heritage New Zealand nevertheless considers the volumes triggers to be worthwhile.</p>
<p>10 11 12 13 14 15 16 17 18 19 20 21 22</p> <p>49/15/6 49/15/7 49/16/6 49/16/7 49/17/6 49/17/7 49/29/3 49/36/5 49/36/6 49/39/6 49/41/5 49/41/6 49/48/3 49/50/8</p>	Oppose	<p><u>Tracks and Trails</u></p> <p>In Heritage New Zealand's experience, farm tracks and recreational trails are often based on historic trails where there is a high chance of archaeological sites being present. Furthermore, where trails are made for recreational purposes, these are often built in and around historic sites which provide points of interest for trail users. Farm tracks and recreational trails therefore have the potential to adversely affect heritage values.</p> <p>Heritage New Zealand supports the proposed rules relating to the construction and maintenance of trails which allow for some maintenance of farm access tracks and recreational tracks as a permitted activity. The requirement for resource consent for larger volume earthworks for trails and tracks provides an opportunity to assess effects on heritage values at resource consent stage and to avoid, remedy or mitigate effects on heritage sites. Whether formed for farming, public recreation, or any other purpose, tracks have the same potential to affect heritage values and accordingly should be treated the same. Consideration of effects on heritage sites as part of a resource consent process also provides efficiencies in that where Heritage New Zealand is consulted we can work with the Council to ensure that the resource consent and archaeological authority processes are aligned.</p>

Appendix A: Heritage New Zealand Further Submission: Plan Change 49 - Earthworks, Queenstown Lakes District Plan

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<p>49/32/4 49/55/67</p>	<p>23 24</p>	<p>Oppose</p>	<p>Heritage New Zealand considers objectives 6.2-6.6 to represent good resource management practice and seeks the retention of these provisions in the Earthworks chapter. Where archaeological and/or cultural values may be affected it is appropriate for Heritage New Zealand and Kai Tahu ki Otago or Te Ao Marama Inc to have the opportunity to participate in the resource consent process.</p> <p>Heritage New Zealand suggests that the wording in clauses 6.2 – 6.4 could be changed from ‘notify’ to ‘consult’ to provide greater flexibility as to the type/level of involvement of Heritage New Zealand, Kai Tahu ki Otago and Te Ao Marama Inc. on a case by case basis. It can be difficult for Council staff to determine the scale of effects on heritage values without the specialist advice of Heritage New Zealand staff as applications are often not informed by professional heritage advice.</p> <p>Notification to Heritage New Zealand where archaeological values may be affected can provide benefits to applicants in terms of aligning resource consent and archaeological authority processes and/or designing the project to avoid archaeological sites, and therefore avoiding the need to obtain an archaeological authority.</p>
<p>49/33/1</p>	<p>25</p>	<p>Support</p>	<p><u>Heritage Landscapes</u></p> <p>Heritage New Zealand considers that the addition of a reference to heritage landscapes to section 22.1 as suggested by the submitter would be in line with policy 6.7 of the proposed earthworks provisions.</p>
<p>49/25/8 49/23/8 49/21/8</p>	<p>26 27 28</p>	<p>Oppose</p>	<p><u>Heritage Landscapes Earthworks Volume</u></p> <p>Proposed Objective 6 recognises that earthworks may have adverse effects on cultural and heritage values and that cultural and heritage values should be protected from such adverse effects. Any amount of earthworks has the potential to disturb archaeological sites, although in areas where there is likely to be a greater concentration of sites, large scale earthworks have the potential to affect more sites. Heritage New</p>

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<p>Zealand therefore considers it is appropriate to retain control over earthworks volumes in heritage landscape areas so as to capture any situations where large-scale earthworks would not trigger any of the other relevant standards. It is also considered appropriate for the volume threshold to be set at a lower level as heritage landscape areas are likely to have higher numbers of archaeological sites than other rural areas.</p>		
<p>Heritage New Zealand disagrees that the first sentence of subparagraph (a) is inaccurate. All archaeological sites are protected pursuant to the Heritage New Zealand Pouhere Taonga Act 2014 and prior to that through the Historic Places Act 1993. Notwithstanding this, Heritage New Zealand's original submission recommended that the term archaeological site be defined in the District Plan so as to clarify what constitutes a protected archaeological site. The definition of 'historic heritage' includes archaeological sites. Sub-paragraph (b) should remain as it explains where to find information about recorded archaeological sites. Heritage New Zealand notes the comment regarding archaeological sites in section 13 and suggests that the following wording would clarify the entire section. Heritage New Zealand considers that the interface between the Resource Management Act/District Plan and Heritage New Zealand Pouhere Taonga Act 1993 is often misunderstood and it is helpful to Council, Heritage New Zealand and applicants for the District Plan to provide a full explanation of the regulatory regime and as much clarity on this as possible.</p>	<p>49/1/21 29</p> <p>Oppose in part</p>	<p>iv Archaeological Sites</p> <p>(a) As well as falling within the definition of 'historic heritage' as set out in Section 2 of the RMA 1991, All archaeological sites within the District are protected from modification, damage or destruction through the Historic Places Act 1993. They also defined within "historic heritage" in Section 2 of the Resource Management Act 1991. All earthworks must also comply with the Historic Places Act 1993, Heritage New Zealand Pouhere Taonga Act 2014 which protects recorded, suspected and unrecorded archaeological sites from destruction, damage and modification. In addition to resource consent for earthworks, an archaeological authority (a consent) may need to be obtained from Heritage New Zealand applied for, from the New Zealand Historic Places Trust.</p> <p>(b) 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. Additionally some sites</p>

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	are identified in District Plans.	
<p>(c) Any development affecting an archaeological site <u>listed in</u> (or any other item in the Inventory of Protected Features at Appendix 3) is also subject to the Rules in Section 13 of this Plan.</p>	<p>Heritage New Zealand is keen that the District Plan earthworks provisions integrate, as far as possible, with the archaeological authority process under the Historic Places Act 1993. In this respect it is preferable for the two processes to run concurrently so that Council and Heritage New Zealand and the applicant can work together to ensure that there is consistency in the approach to management of archaeological values.</p> <p>Heritage New Zealand recommends that 22.4 vii (c) be amended as follows to address the submitter's concern whilst retaining the emphasis on integration between the resource consent and archaeological authority processes:</p> <p>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 the NZ Historic Places Trust <u>Heritage New Zealand. If an archaeological authority has not been applied for, the Council will consider other evidence of consultation with Heritage New Zealand.</u></p>	<p>49/1/28</p> <p>30</p> <p>Oppose in part</p>