

49/21

Submission on Publicly Notified Plan Change

Clause 6 of the First Schedule of the Resource Management Act 1991

To: Queenstown Lakes District Council
Private Bag 50072
Queenstown 9348

Name of submitter: **Barley Station Ltd**

1. This is a submission on the following public plan change:

Plan Change 49: Earthworks – to the Queenstown Lakes District Plan ("PC49").

2. Barley Station Ltd could not gain an advantage in trade competition through this submission.

Barley Station Ltd

3. Barley Station Ltd is a landowner in and around the Crown Terrace in the Queenstown Lakes District. It carries out farming and related activities which from time to time require earthworks to be undertaken. These works could require resource consent under proposed PC49.
4. Barley Station Ltd has concerns with several the provisions proposed by PC49. These concerns are set out according to subject headings below:

Objectives and Policies

5. Barley Station Ltd is concerned at the general tenor of the proposed objectives and policies of PC49. It is important that objectives and policies recognise the importance and benefits of earthworks, and that environmental effects can be appropriately mitigated and remedied. Barley Station Ltd does not believe there is an existing weakness in the objective and policy framework of the District Plan which is enabling inappropriate adverse effects from earthworks on landscape and visual amenity values.
6. As its stands Barley Station Ltd is concerned with how many of the proposed Objectives and Policies may frustrate or prevent it from carrying out its business in a rural environment. It supports proposed Objective 4 and policies 4.1, 4.2 and 4.3 but is concerned that these are subservient to Objective 2 (and by connection subsequent policies) which it considers to be unjustifiably restrictive.
7. Barley Station Ltd seeks the following relief:

That proposed objectives and policies be revised to more explicitly recognise the benefits of earthworks and ensure that in most parts of the District, including visual

amenity landscapes, primacy is not given to the protection of existing landforms at the expense of modifications associated with appropriate use and development.

And

That objectives and policies be amended to recognise that mitigation and remediation of effects arising from earthworks will often be an appropriate course of action.

Rules

8. Barley Station Ltd does not consider that sufficient justification is made for a number of proposed rules. Some of these rules are the same or similar to existing rules, however it is important that this opportunity is used to comprehensively review all rules and remove unnecessary regulation.

9. Barley Station Ltd seeks the following relief:

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.*
- *Rule 22.3.2.6 – Rules enabling notification of applications for earthworks for restricted discretionary activities.*
- *The widespread use of restricted discretionary or discretionary status for various earthworks consents, as opposed to controlled activity status.*

10. Barley Station Ltd supports the exemptions from earthworks rules provided for under 22.3.2.1 (b). However, it has reservations as to whether the proposed restrictions on what constitutes 'maintenance work' provide for the reasonable continuation of normal rural activities.

11. Barley Station Ltd seeks the following relief:

That the Hearings Panel give consideration to whether more enabling rules are appropriate than provided for as part of maintenance under Rule 22.3.2.1 (b) in order to allow normal rural activities, and make amendments accordingly.

Restrictions on Earthworks in Outstanding Natural Landscapes

12. Barley Station Ltd has particular concerns with the level of restriction proposed on earthworks in Outstanding Natural Landscapes, Outstanding Natural Features and Heritage Landscapes. Earthworks in these environments are necessary in order for landowners to carry out normal rural activities and to exercise stewardship over their land. However the 200m³ limit on earthworks before resource consent is required could lead to a large number of resource consents being applied for or incentivise non-compliance.
13. It is noteworthy that once a resource consent is required it is proposed that it will be assessed against an especially restrictive objective and policy framework which promotes the avoidance of effects (as addressed earlier in this submission). It is also noted that Outstanding Natural Landscapes, Outstanding Natural Features and Heritage Landscapes are not precisely defined in the District Plan, which will make it difficult or impossible to determine with certainty whether the volume limits set out in Table 22.1 for these landscape categories apply.
14. Barley Station Ltd seeks the following relief:

That the volume limit specific to Outstanding Natural Landscapes, Outstanding Natural Features and Heritage Landscapes be deleted.

Assessment Matters

15. Barley Station Ltd considers that a review of the assessment matters to ensure they pragmatically provide for rural activities and are consistent with the settled objectives and policies is necessary. Many of the concerns raised in this submission are also apparent in the assessment matters.
16. Barley Station Ltd seeks the following relief:

That the proposed assessment matters are amended as necessary to ensure they pragmatically provide for rural activities and are consistent with objectives and policies.
17. Barley Station Ltd requests such alternative, additional or consequential amendments to the PC49 Plan Provisions as may be considered necessary or appropriate in order to address the issues raised in this submission.
18. Barley Station Ltd wishes to be heard in support of this submission.

Date: 30 July 2014

Details for service:

Attention: Daniel Wells

John Edmonds and Associates Ltd

PO Box 95, Queenstown, 9348

Email: dan@jea.co.nz

49/22

Submission on Publicly Notified Plan Change

Clause 6 of the First Schedule of the Resource Management Act 1991

To: Queenstown Lakes District Council
Private Bag 50072
Queenstown 9348

Name of submitter: **Glentui Heights Ltd**

1. This is a submission on the following public plan change:

Plan Change 49: Earthworks – to the Queenstown Lakes District Plan ("PC49").

2. Glentui Heights Ltd (**Glentui**) could not gain an advantage in trade competition through this submission.

Glentui

3. Glentui is an owner of approximately 30ha of Rural-Residential zoned land at Bob's Cove. Glentui holds resource consents that enable it to undertake residential development. This development would include works that would be considered earthworks under proposed PC49. It also carries out farming and related activities which from time to time require earthworks to be undertaken. The Bob's Cove area is included within the Outstanding Natural Landscape – Wakatipu Basin landscape category according to Appendix 8A – Map 1 of the District Plan.
4. Glentui has concerns with several the provisions proposed by PC49. These concerns are set out according to subject headings below:

Objectives and Policies

5. Glentui is concerned at the general tenor of the proposed objectives and policies of PC49. It is important that objectives and policies recognise the importance and benefits of earthworks, and that environmental effects can be appropriately mitigated and remedied. Glentui does not believe there is an existing weakness in the objective and policy framework of the District Plan which is enabling inappropriate adverse effects from earthworks on landscape and visual amenity values.
6. As it stands Glentui is concerned with how many of the proposed Objectives and Policies may frustrate or prevent it from carrying out its business in a rural environment. It supports proposed Objective 4 and policies 4.1, 4.2 and 4.3 but is concerned that these are subservient to Objective 2 (and by connection subsequent policies) which it considers to be unjustifiably restrictive.

7. Glentui seeks the following relief:

That proposed objectives and policies be revised to more explicitly recognise the benefits of earthworks and ensure that in most parts of the District primacy is not given to the protection of existing landforms at the expense of modifications associated with appropriate use and development.

And

That objectives and policies be amended to recognise that mitigation and remediation of effects arising from earthworks will often be an appropriate course of action.

Rules

8. Glentui does not consider that sufficient justification is made for a number of proposed rules. Some of these rules are the same or similar to existing rules, however it is important that this opportunity is used to comprehensively review all rules and remove unnecessary regulation. It is unclear from Table 22.1 which category the Glentui land falls under; either Tier 2, 3 or 4.

9. Glentui seeks the following relief:

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.*
- *Rule 22.3.2.6 – Rules enabling notification of applications for earthworks within a setback from a boundary.*
- *The widespread use of restricted discretionary or discretionary status for various earthworks consents, as opposed to controlled activity status.*

10. Glentui supports the exemptions from earthworks rules provided for under 22.3.2.1 (b). However, it has reservations as to whether the proposed restrictions on what constitutes 'maintenance work' provide for the reasonable continuation of normal rural activities.

11. Glentui seeks the following relief:

That the Hearings Panel give consideration to whether more enabling rules are appropriate than provided for as part of maintenance under Rule 22.3.2.1 (b) in order to allow normal rural activities, and make amendments accordingly.

Assessment Matters

12. Glentui considers that a review of the assessment matters to ensure they pragmatically provide for rural and rural-living activities and are consistent with the settled objectives and policies are necessary. Many of the concerns raised in this submission are also apparent in the assessment matters.

13. Glentui seeks the following relief:

That the proposed assessment matters are amended as necessary to ensure they pragmatically provide for rural activities and are consistent with objectives and policies.

14. Glentui requests such alternative, additional or consequential amendments to the PC49 Plan Provisions as may be considered necessary or appropriate in order to address the issues raised in this submission.

15. Glentui wishes to be heard in support of this submission.

Date: 30 July 2014

Details for service:

Attention: Daniel Wells

John Edmonds and Associates Ltd

PO Box 95, Queenstown, 9348

Email: dan@jea.co.nz

49/23

Submission on Publicly Notified Plan Change

Clause 6 of the First Schedule of the Resource Management Act 1991

To: Queenstown Lakes District Council
Private Bag 50072
Queenstown 9348

Name of submitter: Halfway Bay Station, Allandale Farm and Greenvale Farm ('Halfway Bay')

1. This is a submission on the following public plan change:

Plan Change 49: Earthworks – to the Queenstown Lakes District Plan ("PC49").

2. Halfway Bay could not gain an advantage in trade competition through this submission.

Halfway Bay

3. Halfway Bay, Allandale Farm and Greenvale Farm ('Halfway Bay') are large high country farms on the western side of Lake Wakatipu. Halfway Bay carries out farming and rural activities which from time to time require earthworks to be undertaken. These activities may require resource consents for earthworks under proposed PC49.
4. Halfway Bay has concerns with the provisions proposed by PC49. These concerns are set out according to subject headings below:

Objectives and Policies

5. Halfway Bay is concerned at the general tenor of the proposed objectives and policies of PC49. It is important that objectives and policies recognise the importance and benefits of earthworks, and that environmental effects can be appropriately mitigated and remedied. Halfway Bay does not believe there is an existing weakness in the objective and policy framework of the District Plan which is enabling inappropriate adverse effects from earthworks on landscape and visual amenity values.
6. As it stands Halfway Bay is concerned with how many of the proposed Objectives and Policies may frustrate or prevent it from carrying out its business in a rural environment. It supports proposed Objective 4 and policies 4.1, 4.2 and 4.3 but is concerned that these are subservient to Objective 2 (and by connection subsequent policies) which it considers to be unjustifiably restrictive.
7. Halfway Bay seeks the following relief:

That proposed objectives and policies be revised to more explicitly recognise the benefits of earthworks and ensure that in most parts of the District, including visual amenity landscapes, primacy is not given to the protection of existing landforms at the expense of modifications associated with appropriate use and development.

And

That objectives and policies be amended to recognise that mitigation and remediation of effects arising from earthworks will often be an appropriate course of action.

Rules

8. Halfway Bay does not consider that sufficient justification is made for a number of proposed rules. Some of these rules are the same or similar to existing rules, however it is important that this opportunity is used to comprehensively review all rules and remove unnecessary regulation.

9. Halfway Bay seeks the following relief:

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.*
- *Rule 22.3.2.6 – Rules enabling notification of applications for earthworks for restricted discretionary activities.*
- *The widespread use of restricted discretionary or discretionary status for various earthworks consents, as opposed to controlled activity status.*

10. Halfway Bay supports the exemptions from earthworks rules provided for under 22.3.2.1 (b). However, it has reservations as to whether the proposed restrictions on what constitutes 'maintenance work' provide for the reasonable continuation of normal rural activities.

11. Halfway Bay seeks the following relief:

That the Hearings Panel give consideration to whether more enabling rules are appropriate than provided for as part of maintenance under Rule 22.3.2.1 (b) in order to allow normal rural activities, and make amendments accordingly.

Restrictions on Earthworks in Outstanding Natural Landscapes

12. Halfway Bay has particular concerns with the level of restriction proposed on earthworks in Outstanding Natural Landscapes, Outstanding Natural Features and Heritage Landscapes. Earthworks in these environments are necessary in order for landowners to carry out normal rural activities and to exercise stewardship over their land. However the 200m³ limit on earthworks before resource consent is required could lead to a large number of resource consents being applied for or incentivise non-compliance.
13. It is noteworthy that once a resource consent is required it is proposed that it will be assessed against an especially restrictive objective and policy framework which promotes the avoidance of effects (as addressed earlier in this submission). It is also noted that Outstanding Natural Landscapes, Outstanding Natural Features and Heritage Landscapes are not precisely defined in the District Plan, which will make it difficult or impossible to determine with certainty whether the volume limits set out in Table 22.1 for these landscape categories apply.
14. Halfway Bay seeks the following relief:

That the volume limit specific to Outstanding Natural Landscapes, Outstanding Natural Features and Heritage Landscapes be deleted.

Assessment Matters

15. Halfway Bay considers that a review of the assessment matters to ensure they pragmatically provide for rural activities and are consistent with the settled objectives and policies is necessary. Many of the concerns raised in this submission are also apparent in the assessment matters.
16. Halfway Bay seeks the following relief:

That the proposed assessment matters are amended as necessary to ensure they pragmatically provide for rural activities and are consistent with objectives and policies.
17. Halfway Bay requests such alternative, additional or consequential amendments to the PC49 Plan Provisions as may be considered necessary or appropriate in order to address the issues raised in this submission.
18. Halfway Bay wishes to be heard in support of this submission.

Date: 30 July 2014

Details for service:

Attention: Daniel Wells

John Edmonds and Associates Ltd

PO Box 95, Queenstown, 9348

Email: dan@jea.co.nz

49/24

Submission on Publicly Notified Plan Change

Clause 6 of the First Schedule of the Resource Management Act 1991

To: Queenstown Lakes District Council
Private Bag 50072
Queenstown 9348

Name of submitter: **R Monk and Cook Adam Trustees Ltd**

1. This is a submission on the following public plan change:

Plan Change 49: Earthworks – to the Queenstown Lakes District Plan ("PC49").

2. R Monk and Cook Adam Trustees Ltd (**Monk**) could not gain an advantage in trade competition through this submission.

R Monk

3. R Monk is the owner of approximately 20ha of the Arrowtown South Special Zoned land that is located adjacent to the southern edge of the Low Density Zone of Arrowtown. This zoning provides for development of a rural-residential nature amongst large areas of open space. The creation of residential sites within this zone is contingent upon the creation of open space areas, including walking trails and riparian improvements. Such works should be enabled to occur as they will result in a wider community benefit. The development of this land will involve significant earthworks. Prior to any development, or within those areas of open space that are created when the zone is implemented there may be areas of land used for farming and related activities, which from time to time require earthworks to be undertaken. The Monk land has been indicated as falling inside of the Visual Amenity Landscape category through the Environment Court decisions on Plan Change 39.
4. The submitter has concerns with several the provisions proposed by PC49. These concerns are set out according to subject headings below:

Objectives and Policies

5. The submitter is concerned at the general tenor of the proposed objectives and policies of PC49. It is important that objectives and policies recognise the importance and benefits of earthworks, and that environmental effects can be appropriately mitigated and remedied. Monk does not believe there is an existing weakness in the objective and policy framework of the District Plan which is resulting inappropriate adverse effects from earthworks on landscape and visual amenity values.

6. As its stands the submitter is concerned with how many of the proposed Objectives and Policies may frustrate or prevent it from carrying out its business in a rural environment. It supports proposed Objective 4 and policies 4.1, 4.2 and 4.3 but is concerned that these are subservient to Objective 2 (and by connection subsequent policies) which it considers to be unjustifiably restrictive.
7. The submitter seeks the following relief:

That proposed objectives and policies be revised to more explicitly recognise the benefits of earthworks and ensure that in most parts of the District primacy is not given to the protection of existing landforms at the expense of modifications associated with appropriate use and development.

And

That objectives and policies be amended to recognise that mitigation and remediation of effects arising from earthworks will often be an appropriate course of action.

Rules

8. The submitter does not consider that sufficient justification is made for a number of proposed rules. Some of these rules are the same or similar to existing rules, however it is important that this opportunity is used to comprehensively review all rules and remove unnecessary regulation. It is unclear from Table 22.1 which category the Monk land falls under; either Tier 2, 3, 4 or 7.
9. The submitter seeks the following relief:

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.*
- *Rule 22.3.2.6 – Rules enabling notification of applications for earthworks within a setback from a boundary.*
- *The widespread use of restricted discretionary or discretionary status for various earthworks consents, as opposed to controlled activity status.*

10. Monk supports the exemptions from earthworks rules provided for under 22.3.2.1 (b). However, it has reservations as to whether the proposed restrictions on what constitutes 'maintenance work' provide for the reasonable continuation of normal rural activities.

11. The submitter seeks the following relief:

That the Hearings Panel give consideration to whether more enabling rules are appropriate than provided for as part of maintenance under Rule 22.3.2.1 (b) in order to allow normal rural activities, and make amendments accordingly.

Assessment Matters

12. The submitter considers that a review of the assessment matters to ensure they pragmatically provide for rural and rural-living activities and are consistent with the settled objectives and policies are necessary. Many of the concerns raised in this submission are also apparent in the assessment matters.

13. Monk seeks the following relief:

That the proposed assessment matters are amended as necessary to ensure they pragmatically provide for rural activities and are consistent with objectives and policies.

14. The submitter requests such alternative, additional or consequential amendments to the PC49 Plan Provisions as may be considered necessary or appropriate in order to address the issues raised in this submission.

15. The submitter wishes to be heard in support of this submission.

Date: 30 July 2014

Details for service:

Attention: Daniel Wells

John Edmonds and Associates Ltd

PO Box 95, Queenstown, 9348

Email: dan@jea.co.nz

49/25

Submission on Publicly Notified Plan Change

Clause 6 of the First Schedule of the Resource Management Act 1991

To: Queenstown Lakes District Council
Private Bag 50072
Queenstown 9348

Name of submitter: **Royalburn Farm**

1. This is a submission on the following public plan change:

Plan Change 49: Earthworks – to the Queenstown Lakes District Plan ("PC49").

2. Royalburn Farm could not gain an advantage in trade competition through this submission.

Royalburn Farm

3. Royalburn Farm is an owner of approximately 500ha of pastoral farmland on the eastern end of the Crown Terrace. Royalburn Farm holds resource consents that enable it to undertake residential development. This development would include works that would be considered earthworks under proposed PC49. It also carries out farming and related activities which from time to time require earthworks to be undertaken.
4. Royalburn Farm has concerns with several the provisions proposed by PC49. These concerns are set out according to subject headings below:

Objectives and Policies

5. Royalburn Farm is concerned at the general tenor of the proposed objectives and policies of PC49. It is important that objectives and policies recognise the importance and benefits of earthworks, and that environmental effects can be appropriately mitigated and remedied. Royalburn Farm does not believe there is an existing weakness in the objective and policy framework of the District Plan which is enabling inappropriate adverse effects from earthworks on landscape and visual amenity values.
6. As its stands Royalburn Farm is concerned with how many of the proposed Objectives and Policies may frustrate or prevent it from carrying out its business in a rural environment. It supports proposed Objective 4 and policies 4.1, 4.2 and 4.3 but is concerned that these are subservient to Objective 2 (and by connection subsequent policies) which it considers to be unjustifiably restrictive.
7. Royalburn Farm seeks the following relief:

That proposed objectives and policies be revised to more explicitly recognise the benefits of earthworks and ensure that in most parts of the District, including visual

amenity landscapes, primacy is not given to the protection of existing landforms at the expense of modifications associated with appropriate use and development.

And

That objectives and policies be amended to recognise that mitigation and remediation of effects arising from earthworks will often be an appropriate course of action.

Rules

8. Royalburn Farm does not consider that sufficient justification is made for a number of proposed rules. Some of these rules are the same or similar to existing rules, however it is important that this opportunity is used to comprehensively review all rules and remove unnecessary regulation.

9. Royalburn Farm seeks the following relief:

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.*
- *Rule 22.3.2.6 – Rules enabling notification of applications for earthworks for restricted discretionary activities.*
- *The widespread use of restricted discretionary or discretionary status for various earthworks consents, as opposed to controlled activity status.*

10. Royalburn Farm supports the exemptions from earthworks rules provided for under 22.3.2.1 (b). However, it has reservations as to whether the proposed restrictions on what constitutes 'maintenance work' provide for the reasonable continuation of normal rural activities.

11. Royalburn Farm seeks the following relief:

That the Hearings Panel give consideration to whether more enabling rules are appropriate than provided for as part of maintenance under Rule 22.3.2.1 (b) in order to allow normal rural activities, and make amendments accordingly.

Restrictions on Earthworks in Outstanding Natural Landscapes

12. Royalburn Farm has particular concerns with the level of restriction proposed on earthworks in Outstanding Natural Landscapes, Outstanding Natural Features and Heritage Landscapes. Earthworks in these environments are necessary in order for landowners to carry out normal rural activities and to exercise stewardship over their land. However the 200m3 limit on earthworks before resource consent is required could lead to a large number of resource consents being applied for or incentivise non-compliance.
13. It is noteworthy that once a resource consent is required it is proposed that it will be assessed against an especially restrictive objective and policy framework which promotes the avoidance of effects (as addressed earlier in this submission). It is also noted that Outstanding Natural Landscapes, Outstanding Natural Features and Heritage Landscapes are not precisely defined in the District Plan, which will make it difficult or impossible to determine with certainty whether the volume limits set out in Table 22.1 for these landscape categories apply.
14. Royalburn Farm seeks the following relief:

That the volume limit specific to Outstanding Natural Landscapes, Outstanding Natural Features and Heritage Landscapes be deleted.

Assessment Matters

15. Royalburn Farm considers that a review of the assessment matters to ensure they pragmatically provide for rural activities and are consistent with the settled objectives and policies is necessary. Many of the concerns raised in this submission are also apparent in the assessment matters.
16. Royalburn Farm seeks the following relief:
- That the proposed assessment matters are amended as necessary to ensure they pragmatically provide for rural activities and are consistent with objectives and policies.*
17. Royalburn Farm requests such alternative, additional or consequential amendments to the PC49 Plan Provisions as may be considered necessary or appropriate in order to address the issues raised in this submission.
18. Royalburn Farm wishes to be heard in support of this submission.

Date: 30 July 2014

Details for service:

Attention: Daniel Wells

John Edmonds and Associates Ltd

PO Box 95, Queenstown, 9348

Email: dan@jea.co.nz



49/26

Form 5

Submission on a Publicly Notified Plan Change	Clause 6 of First Schedule Resource Management Act 1991 – as amended 30 August 2010
To: Policy Department QLDC Private Bag 50072 QUEENSTOWN	
YOUR DETAILS	
Name: Cardrona Alpine Resort	
Contact Person: Erik Barnes	
Address: Cardrona Alpine Resort, Cardrona	
Postal Address: PO Box 117, 18 Dunmore St	
Phone Number: 443 7341 ext 725	
Fax Number N/A	E-mail: erik.barnes@cardrona.com
This is a submission on the following proposed plan change:	
Plan Change 49 – Earthworks	
I COULD NOT gain an advantage in trade competition through this submission	
I AM directly affected by an effect of the subject matter of the submission Cardrona Alpine resort is a landowner potentially effected by PC49.	
The specific provisions of the proposal that my submission relates to are:	
Objective 1. Earthworks and Environmental Effects Objective 2. Landscape and Visual Amenity values Objective 4. Earthworks in Rural Areas and Ski Area Subzones Policies 4.1 to 4.4 Rule 22.3.2 Activities Rule 22.3.2.1 Permitted Activities Rule 22.3.2.2 Controlled Activities Rule 22.3.2.3 Restricted Discretionary Activities Rule 22.3.2.4 Discretionary Activities Rule 22.3.2.5 Non-complying Activities	

Rule 22.3.6.6 Non-notification of applications

22.3.3 Site Standards

22.4 Resource Consents – Assessment Matters

My submission is:

Summary of Cardrona Alpine Resort Position on Plan Change 49

1. Cardrona Alpine Resort supports Council's move to simplify and streamline the earthworks provisions within the District Plan by consolidating into one section.
2. Cardrona Alpine Resort opposes the proposed changes to the Ski Area Sub-Zone in Plan Change 49: Earthworks as currently drafted. The current operative District Plan, with the exclusion of Ski Area Sub-Zones from the earthworks rules, was adopted to enable the development of ski areas, recognising their importance in contributing to the social and economic well-being of the community. The proposed changes, as stated, significantly restrict the ability of the resort to maintain, operate and develop a safe and economic ski area. Any changes should continue to recognise the economic importance of maintaining and developing ski areas for the local and national economy.
3. Significant pressures face the ski/snowboarding industry with rising costs of operation; increasing expectations from guests; increased safety requirements and changes to legislation; the fast paced nature of changing trends; and the need to look at more unique products to ensure financial viability in the future. The District Plan needs to be future focused and support the ability for ski areas to adapt and change recreational opportunities to potential climate change issues. This will help ensure continued recreational opportunities as well as helping to ensure the continued growth of the local/national economy and employment market. By the nature of our operation the need to change the landscape through earthworks is fundamental to our viability as a company to meet current and future changes.
4. Ski Area Sub-Zones are specifically identified on the Planning Maps. Those identified areas anticipate and provide for the kinds of activities traditionally carried out within ski/snowboarding fields. Those activities, of necessity, include 'terraforming' the landscape involving extensive earthworks. Such earthworks are an integral and essential aspect of the construction, operation, and maintenance of ski/snowboarding areas.
5. Providing recreational opportunities for ski and snowboarders has an inevitable outcome of the area undergoing major change through earthworks. This change will result in major effects on natural landforms, prominent ridgelines, and the like. These areas of major effect are limited in scope, and in area, when considered in the context of the Queenstown Lakes District. When one considers the recreational opportunities which are enabled by such earthworks, it is arguable that those effects are not adverse. However that is a debatable point and it is essential that the District Plan resolve that debate by enabling and providing for such earthworks on the bases that they are not adverse.

6. The current operative District Plan recognises all of the above by exempting earthworks within the Ski Area Sub-Zones from any form of direct control. That regime has been in place since at least 1995 (and possibly considerably longer). That is an appropriate approach for this activity.
7. The proposed changes also create an unbalanced approach between ski areas that are on Department of Conservation (DOC) land holding concessions and private free hold land owners. PC49, as proposed, creates unequal system for Cardrona Alpine Resort over other ski areas because ski areas holding DOC concessions are not subject to the same control as free hold land owners. We believe this change creates a disincentive to private ownership, because private ownership would result in loss of the exemption, when private ownership might otherwise be an effective and efficient outcome in terms of management of the Ski Area land resource. We believe all ski areas should be subject to the same (if any) control. However we contend that no such control is necessary, for the reasons stated in our submission.
8. We seek to retain the current operative Ski Area Sub-Zone exemptions or modify PC 49 to incorporate the same level of exemptions.

Overview of Cardrona Alpine Resort In Relation to PC49

9. Modern ski fields require more than groomed trails to attract skiers and snow boarders. Ski areas now need to incorporate terrain parks that include ramps / jumps, rails, half pipes, table tops and banks; all of which require earthworks to create the features and to maintain. These speciality features are developed over summer and only tested thoroughly over winter and then refined in the following summer. Trails are also developed in a similar fashion with identified improvements and safety issues assessed during the winter season and modified in the summer.
10. Terrain park features are essential to the economic viability of ski areas such as Cardrona Alpine Resort. However these features are subject to trends and after a few seasons a particular feature of Cardrona's Alpine Resort terrain park may need to be replaced or refined requiring more earthworks. The development and maintenance of a terrain park is constantly evolving and the requirement to gain resource consents for such terrain park adjustments would be unduly onerous. Especially considering the Ski Fields on Public Conservation Lands will likely be able to vary their existing concession to allow for volume earthworks for the duration of their Department of Conservation or Crown lease and maintenance Earthworks are permitted under the proposed plan changes. The existing Ski Field concessionaires are likely to already have such earthworks provisions in their current concessions therefore these proposed plan changes will only significantly affect the Ski Field operators on private land.
11. Cardrona Alpine Resort cannot understand why the Earthworks rules with respect to Ski Area Sub-Zones need to change. Within the scale of Mount Cardrona the current earthworks are not obtrusive. The actual area of the mountain affected by Earthworks is minor and the Earthworks can only be seen from a distance in the

summer months because the Ski Field is closed to the public and in winter when the Ski Field is open the “earthworks” are covered by snow. We believe the landscape and visual amenity values of Mount Cardrona are not adversely affected by earthworks and these proposed district plan changes regarding earthworks at Cardrona Alpine Resort will introduce a further layer of bureaucracy and additional compliance costs to an already costly industry.

12. Due to operational and environmental factors ski areas are limited to conduct any earthworks to the summer months. This creates an extremely short timeframe to conduct any required safety modifications and improvements identified in the winter season.

Specifics to submission

13. Cardrona Alpine Resort acknowledges the need to ensure a high level of environmental protection and ensuring earthworks meet appropriate engineering standards.
14. The proposed changes for the Ski Area Sub-Zone are contrary to the objective of simplifying, enabling, and clarifying requirements to allow for certainty in economic development and employment creation. The changes increase the required administrative compliance that will lead to increased costs and uncertainty for future development. As stated in the DP Review Section 32 Analysis report:
 - a. “The principle aims of the District Plan review is to simplify the plan where appropriate and to provide greater clarity and certainty around development matters in the District. It is anticipated that this will remove some of the uncertainties that can restrict potential economic growth and associated employment provision.”
15. The proposed changes would require the majority of earthworks undertaken as routine maintenance and operation at Cardrona to seek a resource consent from Council. The changes will also significantly impede future development work by requiring additional administrative cost, increased time to complete works and decrease our ability to improve slope safety as issues are identified during the ski season.

16. Objective 1

- a. “Avoiding” vs. “Avoiding, remedying, or mitigation”
- b. Objective 1 addresses the enabling aspect of earthworks, and does so by recognising that earthworks are essential to subdivision, development and access. However Objective 1 then requires those enabling earthworks to be undertaken in a manner which ‘avoids adverse effects.’ It is plainly impossible to carry out earthworks in a manner which avoids all adverse effects. It is inappropriate for an Objective to seek an outcome which is impossible to achieve.
- c. That Objective 1 is implemented by Policy 1.2 and Policy 1.5 which again require avoidance. The same point applies. A policy should not seek to achieve the impossible.
- d. Cardrona Alpine Resort acknowledges that policies should be directive to the extent reasonably possible, and that it is generally undesirable to parrot the “avoid, remedy or mitigate” mantra of the RMA. However that is the

reality when it comes to earthworks. Some effects are avoided, many effects are mitigated, and sometimes effects are remedied. There is nothing inappropriate about using the phrase “avoid, remedy or mitigate” when it is directly applicable and is appropriate.

- e. If one considers earthworks for a particular activity in the context of the objectives and policies of the relevant zone, informed by Part 4 Objectives and Policies where relevant, then the inevitable outcome is an “avoid, remedy, or mitigate” outcome. It is inappropriate for a separate Earthworks Part 22 of the District Plan to seek more stringent outcomes that are anticipated by other relevant objectives and policies in the District Plan. That merely creates inconsistencies within the District Plan which will cause interpretation problems.

17. Objective 2 & Policies 2.1 to 2.4

- a. With respect to Ski Area Sub-Zones; terrain park features are not necessarily “sympathetic to natural topography” and can “create an area that is inconsistent with the character of the surrounding landscape” this cannot be readily mitigated because terrain parks must have features which skiers / snowboarders can use to undertake jumps and other acrobatic feats. Accordingly Cardrona Alpine Resort believes greater consideration should be given to the overall scale of ski field earthworks relative to the mountains themselves.
- b. Objective 2 landscape and visual amenity values policies (2.1 to 2.4) have the potential to create further ambiguity as they are not clearly referenced to other related sections of the District Plan. Cardrona and other ski areas would find it difficult to meet the policies as outlined in Objective 2 due to the nature of ski/snowboarding trail and terrain park design, location of operation, and scale of earthworks that are required to safely operate and attract guests to the ski area.
- c. This issue is further compounded with Objective 2 being inserted as the priority objective in Objective 4 (‘Subject to Objective 2, to enable earthworks...’). Though Cardrona Alpine Resort is supportive of ensuring the visual amenity and alpine environmental values we are also aware of the requirements to operate a safe ski/snowboarding resort that attracts recreational users. We believe the addition of Objective 2 in the earthworks section and reference of Objective 2 in Objective 4 creates the potential for a wide range of interpretation of the policies intent as the approach taken is a global approach and does not provide guidance in terms of what zone the feature is in (i.e. is the ridge line in the Cardrona Resort a prominent ridgeline?). Pictures 1 and 2 below show the extent of the earthworks for the Cardrona Alpine Resort in the summer and winter months.



Picture 1. Cardrona Alpine Resort (summer)



Picture 2. Cardrona Alpine Resort (Winter snow cover)

- d. Policy 2.3 To ensure cuts and batters are sympathetic to the line and form of the landscape.
 - The nature of modification for certain terrain parks (i.e. half pipes and jumps) would not allow for ski areas to meet this rule without modification (see Pictures 3 & 4 below).
- e. In general we support policy 2.4 remedial works and revegetation mitigation, but note the need to consider the ongoing maintenance requirements and the high alpine environment.



Picture 3. Terrain Park Features (Summer)



Picture 4. Terrain Park Features (winter)

18.Objective 4

- a. As per the comments in paragraph 17 above in relation to Objective 2 we oppose the insertion of Objective 2 in the Objective 4 statement and request that this is removed.
- b. Cardrona Alpine Resort supports the continued recognition of the Ski Area Sub-Zones in Objective 4 but believes the objective statement needs to more clearly identify the importance of the sub-zone with the addition of wording to the objective statement, "...and public recreation values and the development and operation of ski areas."
- c. Regarding Policies 4.1 to 4.4; please note the 'policies:' heading is missing from the draft plan change.
- d. Supports policies 4.1 to 4.4.

19. Earthwork Rules 22.3

a. Rule 22.3.2.1 (b) (i)

- Cardrona Alpine Resort supports the concept of earthworks associated with maintenance of: farm track access, fencing, firebreaks, and public recreational tracks, and trails and operational areas within Ski Area Sub-Zones being exempt of Rule 22.3.3.(i) and 22.3.3 (ii). We believe the exemption should also pertain to bulk earthworks in Rule 22.3.2.4 (b).

b. Rule 22.3.2.1 (b) (i) e

- Cardrona Alpine Resort opposes the additional proviso limiting the exemption. The maintenance threshold is impractical and will significantly limit the resorts ability to conduct maintenance and safety improvement works. To ensure appropriate maintenance and safety in a ski field it will be virtually impossible to ensure *"maintenance work results in less than a 10% increase in exposed surface area of that feature in any 10 year period"*. It is worth noting that this limiting threshold is in contradiction to Objective 4's desire to enable improvements to health and safety.
- The Section 32 report identifies a desire "to provide administrative certainty." The 10% threshold creates uncertainty. It is not clear what is meant by the terms 'maintenance' and 'feature' and how this will be interpreted in regards to assessing the 10% over a 10 year period.
- The caveat around a ten year period is also impractical. In some areas tracks and slope features require maintenance work to be carried out annually or biannually because environmental conditions cause deterioration in the condition of tracks and fences.
- The section 32 report on page 46 notes that 'exemptions for specific activities add to administrative complexity.' We believe the assessment process to ascertain whether earthworks is under the 10% limitation over 10 years will become administratively large for both Cardrona and QLDC.
- We also agree with the statement in the section 32 report page 46, 'The figure 10% is a blunt instrument.' and will only create undue complexity and expense.

c. Rule 22.3.2.1 (c) (i)

- We believe the proposed changes will create a potentially unequal assessment process for Department of Conservation concession holders and free hold land owners. On page 47 of the Section 32 Report for Plan Change 49 Earthworks it is stated that proposed Rule 22.3.2.1(c) exemption would not apply to Cardrona or Snow Farm / Park Ski Area subzones however, we do not believe proposed Rule 22.3.2.1 (c) actually states this. Cardrona Alpine Resort is strongly opposed to any proposed rule changes that create inequality.
- The draft Otago Conservation Management Plan policies with respect to commercial ski fields are relatively brief and permissive regarding Ski Field Development compared to the proposed prescriptive District Plan rules; compounding the likely inequity between Ski Field operators.
- Cardrona Alpine Resort believes it is inappropriate that what is effectively a District Plan control refers to, an depends upon, other decision making processes under different legislation, particularly

when those processes and/or legislation may change without the knowledge of, and outside the control of, the Council.

- The Council has no control over what land may or may not be privatised by the Crown in the future.
- We believe all ski areas should be treated equally and not be subject to resource consent control.

d. Rule 22.3.2.4

- The introduction of the 50,000 cubic metre bulk earthworks threshold is unnecessary and will add a level of additional complexity and administrative cost.
- Cardrona Alpine Resort contends that there is no identifiable difference between an earthworks activity involving 40,000 cubic metres and activity involving 60,000 cubic metres. The same issues arise and the same conditions can be imposed. The trigger level of 50,000 cubic metres in this respect is meaningless.

20. Concerning proposed rule 22.3.3 ii (a) (i) & (ii) Height of cut and fill and slope we contend these provisions are totally impractical in the alpine environment of the Ski Area Sub-Zones as previously discussed in this submission.

21. Cardrona Alpine Resort contends that re-vegetation with respect to Ski Area Sub-Zones is often impractical on ski areas which have been subject to Earthworks because jumps, benches, trails etc. require ongoing maintenance. The council needs to be cognisant of this when evaluating assessments of environmental effects for earthworks.

I seek the following from the local authority:

Modify PC 49 by amending the provisions including, but not limited to, the relief outlined below:

Objective 1

- Cardrona requests Objective 1, Policy 1.2 and Policy 1.5 amend "...avoids adverse effects..." to read "...avoids, remedies or mitigates adverse effects".

Objective 2

- Delete Objective 2 and policies 2.1 to 2.4.
- Delete the words 'Subject to Objective 2...' from Objective 4.

Objective 4

- Modify Objective 4, as follows:
 - i. Objective 4 Earthworks in Rural Areas and Ski area Sub-Zones ~~Subject to Objective 2~~; to enable earthworks that improves efficiency of farming operations, health and safety, public recreation values and the development and operation of ski areas.

Rule 22.3.2.1

- Amend sub clause (i) 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." In sub clause (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 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.

Rule 22.3.2.4(b)

- Delete Rule 22.3.2.4(b) Bulk Earthworks and all other plan provisions relating to that consent category.

Rule 22.4

- Regarding proposed 22.4 Resource Consent Assessment Matters for Ski Area Sub Zones need allow for the reality of modern ski field where earthworks may not be “sympathetic to natural topography”; can “create an area that is inconsistent with the character of the surrounding landscape” and it is not always appropriate to re-vegetate slopes because of ongoing maintenance and safety improvements.

Activities In General

- It needs to be stated more clearly in the proposed rules which activities are Controlled Activities; Restricted Discretionary Activities; Discretionary Activities; and Non-complying Activities across all the plan zones and how the site standards relate to the activity rules.

I DO wish to be heard in support of my submission

I WILL consider presenting a joint case with others present similar submissions

Signature Erik Barnes	Date: 30 July 2014

QLDC, Civic Centre, 10 Gorge Road, Private Bag 50072, Queenstown 9348

Ph: 03 441-0499 **Fax:** 03 450-2223 **E-mail:** service@qldc.govt.nz

49/27

30 July 2014

To: Policy Department
QLDC
Private Bag 50072
Queenstown

From: Dave Drew
2 Snowhill Lane
Quail Rise R.D.1
Queenstown
Ph: 021 607 030
Email: ddrewnz@gmail.com

This is a submission on the following proposed plan change: Plan Change 49

This submission is intended to be a broad application although it is specifically relating to the immediate area around my property at 2 Snowhill Lane, Quail Rise.

I oppose the specific provisions as proposed in Plan Change 49 for the following reasons:

- 300m3 is a significant volume of earthworks
- it may allow features such as screening hillocks or other landscape forms otherwise legally protected to be removed as of right
- 100m3 is a sufficient volume of earthworks to allow for in a residential zone.

Regards
Dave Drew

49/28

Form 5

Submission on a Publicly Notified Plan Change

Clause 6 of First Schedule
Resource Management Act 1991 –
as amended 30 August 2010

To: Policy Department
QLDC
Private Bag 50072
QUEENSTOWN



YOUR DETAILS

Your Name: Gibbston Valley Station
Your Address: _____
Postal Address for Service: ct- Vivian Espie, Box 2514, Wakatipu. 9349
Phone Number: 4414189 (Work) _____ (Home)
Fax Number: _____ E-mail: carey@vivianespie.co.nz

This is a submission on the following proposed plan change:

Plan Change 49 - Earthworks.

I ~~COULD~~/ **COULD NOT**[†] gain an advantage in trade competition through this submission.
[†] Select one.

*I **AM**/ ~~AM NOT~~** directly affected by an effect of the subject matter of the submission –
(a) adversely affects the environment; and
(b) does not relate to trade competition or the effects of trade competition.
* Delete entire paragraph if you could not gain an advantage in trade competition through this submission.
** Select one.

The specific provisions of the proposal that my submission relates to are:

All of the plan change.

My submission is: (include whether you support or oppose the specific provisions or wish to have them amended; and the reasons for your views)

See Attached.

I seek the following from the local authority (give precise details)

See Attached.

I **DO** / ~~DO NOT~~ wish to be heard in support of my submission.

I **WILL** / ~~WILL NOT~~ consider presenting a joint case with others presenting similar submissions.

Carey L.
Signature - to be signed for or on behalf of submitter

30 July 2014
Date

A signature is not required if you make your submission by electronic means.

Contact Details: QLDC, Civic Centre, 10 Gorge Road Private Bag 50072, Queenstown
Phone: 03 441 0499 Fax: 03 450 2223 E-mail: services@qldc.govt.nz

Policy – Plan Change

The Specific provisions of the proposal that my submission relates to are:

All of the Plan Change.

My submission is:

1. Positive v Negative – Change in Emphasis

1.1 Earthworks are essential to the prosperity and wellbeing of the District. In accordance with the general approach of the RMA, the focus should be on enabling appropriate earthworks while ensuring that adverse effects are avoided, remedied or mitigated. Part 4.11 Earthworks of the District Plan (proposed to be deleted under PC49), as currently drafted, reflects the correct approach of enabling subject to environmental protection.

1.2 The Section 22.1 introduction to new Part 22 Earthworks (proposed through PC49) reverses that focus by placing primary emphasis on adverse effects before addressing the important enabling aspect. This is then inconsistent with Section 22.2 which reverts to the original focus first on enabling and then on environmental protection. The reversal in Section 22.1 is inappropriate and creates inconsistency.

Relief Requested

1.3 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 objectives and policies in Section 22.2.

2. Major Change in Policy

2.1 Under the (pre-PC49) District Plan, Part 4 addresses District Wide issues and contains the primary District Wide Objectives and Policies. Each separate Section in Part 4 addresses a different issue and specifies a different set of Objectives and Policies. It is necessary to read the relevant Sections as a whole in order to understand the balance between the way different issues are addressed, and to arrive at overall decisions relating to sustainable management. For example, and relevantly for the purpose of this Submission Point, Part 4.2 deals with landscape and visual amenity issues and Part 4.11 deals with earthworks. This is an appropriate approach because specific issues arise in respect of earthworks which do not arise in respect of landscape and visual amenity effects. Importantly Part 4.11 achieves consistency with Part 4.2 by only touching upon visual amenity issues in passing (because they have already been dealt with under Part 4.2) and by using general language to ensure that Part 4.2 retains priority on the subject of landscape and visual amenity issues and is not contradicted by Part 4.11.

2.2 The PC49 s32 Report does not appear to recognise or reflect the existing District Plan structure (this being one of the dangers of isolating a subject such as Earthworks and dealing with it separately, rather than as part of an overall District Plan Review). The PC49 s32 Report gives the impression that the Earthworks section of the District Plan must also deal with landscape and visual amenity issues relating to earthworks. The s32 Report does not appear to recognise or understand the significance of the Part 4.2 Objectives and Policies.

2.3 As a consequence of the matters detailed in the previous two paragraphs, PC49 includes a major change in policy in respect of landscape and visual amenity values. The new policy direction contained in Objective 2 of PC49 simply requires avoidance of a range of outcomes. Not only is that obviously impossible to achieve, it is fundamentally different from the policy direction contained in Part 4.2. As a consequence PC49 creates a major inconsistency within the District Plan.

2.4 The concerns detailed above are compounded by the introductory words to Objective 4 which read "Subject to Objective 2, to enable earthworks...". The underlined introductory words give Objective 2 priority over Objective 4. This drafting will operate to significantly prevent the positive outcomes

anticipated by Objective 4, because many of the activities detailed in Policies 4.1 – 4.4 cannot be carried out in compliance with the higher priority Policy 2.1 and/or Policy 2.2.

- 2.5 This problem is further compounded by the fact that there has been extensive litigation, and a number of Environment Court judgements, which provide guidance and interpretation on the implementation of Part 4.2. That includes, for example, interpretation of the "*reasonably difficult to see*" concept. PC49 effectively throws all that case law out the window. If PC49 were to be confirmed in its current form, the District Plan would contain one policy approach relating to buildings in sensitive landscapes and a completely different policy approach relating to earthworks in sensitive landscapes. This is obviously inappropriate, because many developments comprise both buildings and earthworks.
- 2.6 This problem is further compounded by the fact that PC49 largely retains the current (pre-PC49) assessment matters, and does not amend the assessment matters to be consistent with the new policy approach. By way of example, the new PC49 Objective 2 "*avoidance of adverse effects*" policy approach is inconsistent with the relevant assessment matters which adopt a "*Whether and to what extent...*" policy approach. The latter is consistent with the Part 4.2 Landscape and Visual Amenity Objectives and Policies but is inconsistent with the new PC49 Objective 2 policy approach.
- 2.7 This basic flaw in PC49 is further compounded by the second major change inherent in PC49 which is to remove earthworks plan provisions from each different part of the District Plan and consolidate them into a new Part 22. Under the pre-PC49 plan provisions, assessment matters relevant to consents for earthworks were considered in the context of the objectives and policies relevant to the activity being undertaken. By way of example, an application for consent for earthworks in the Rural General zone is (pre-PC49) considered against the Part 5 objectives and policies of the Rural General Zone as informed by the relevant Part 4 objectives and policies, whereas an application for consent for earthworks in relation to a residential development within a zoned residential area is considered in the context of the Part 7 Residential objectives and policies which are in turn informed by the Part 4 objectives and policies relevant to residentially zoned areas.
- 2.8 PC49 fundamentally changes this approach. PC49 appears to be attempting to address earthworks in a global manner with very little, if any, reference to development context in terms of the zone within which the proposed activity is taking place. As a result, for example, new Policy 2.2 which requires avoidance of adverse visual effects of earthworks on visually prominent slopes, natural landforms and ridgelines applies to all earthworks, regardless of whether the particular "*prominent slope*" is located on a Rural General VAL hillside or within the residentially zoned area of Queenstown Hill.
- 2.9 One intended objective of PC49, being the removal of numerous duplicated District Plan provisions, is understood and accepted. However this still involves a major change to the structure of the District Plan. The current PC49 approach actually involves a step backwards rather than a step forwards because, although it minimises duplication of plan provisions (which merely reduces the number of 'pages' in a largely online document), it increases consent complexity (and will inevitably increase consenting costs) because it duplicates plan provisions relating to landscape and visual amenity values in a manner which creates fundamental inconsistencies.

Relief Requested

- 2.10 That the following amendments be made:
- a. Delete Objective 2 and Policies 2.1 – 2.4 (and, if considered necessary for the purposes of clarity, cross-reference the Part 4.2 District Wide Objectives and Policies relevant to landscape and visual amenity values).
 - b. Amend Objective 4 by deleting the words "*Subject to Objective 2...*".

- c. Retain Rule 22.4.iv [Landscape and Visual Amenity Assessment Matters] generally in their current form (as they are virtually the same as contained in the District Plan pre-PC49) but add a specific assessment matter which requires consideration to be given to the zone within which the earthworks are being carried out and the relevant objectives and policies of that zone.

3. **"Avoiding" v "Avoiding, remedying or mitigating"**

- 3.1 Objective 1 addresses the enabling aspect of earthworks, and does so by recognising that earthworks are essential to subdivision, development and access. However Objective 1 then requires those enabling earthworks to be undertaken in a manner which "*avoids adverse effects*". It is plainly impossible to carry out earthworks in a manner which avoids all adverse effects. It is inappropriate for an Objective to seek an outcome which is impossible to achieve.
- 3.2 That Objective 1 is implemented by Policy 1.2 and Policy 1.5 which again require avoidance. The same point applies. A policy should not seek to achieve the impossible.
- 3.3 The submitter acknowledges that policies should be directive to the extent reasonably possible, and that it is generally undesirable to parrot the "*avoid, remedy or mitigate*" mantra of the RMA. However that is the reality when it comes to earthworks. Some effects are avoided, many effects are mitigated, and sometimes effects are remedied. There is nothing inappropriate about using the phrase "*avoid, remedy or mitigate*" when it is directly applicable and is appropriate.
- 3.4 This submission point also raises, in a wider context, Submission Point 2 above. If one considers earthworks for a particular activity in the context of the objectives and policies of the relevant zone, informed by Part 4 Objectives and Policies where relevant, then the inevitable outcome is an "*avoid, remedy or mitigate*" outcome. It is inappropriate for a separate Earthworks Part 22 of the District Plan to seek more stringent outcomes than are anticipated by other relevant objectives and policies in the District Plan. That merely creates inconsistencies within the District Plan which will cause interpretation problems.

Relief Requested

- 3.5 In Objective 1, Policy 1.2 and Policy 1.5 amend "... *avoids adverse effects*..." to read "... avoids, remedies or mitigates adverse effects".

4. **Volume Control**

- 4.1 The Submitter questions the justification for any form of volume control relating to earthworks. In making this Submission Point the Submitter acknowledges, and emphasises, the importance of the height and slope trigger control. In sensitive landscapes it is the height of a cut above the level of earthworks activities and/or the height and extent of the fill batter below the level of earthworks activities which primarily gives rise to adverse effects. Within areas zoned for development it is the height of a cut and/or fill which potentially creates stability issues and/or creates other residential adverse effects in respect of neighbouring properties. The Submitter questions what the volume trigger control achieves which is not achieved by the height and slope trigger control.
- 4.2 In making this Submission Point, and in putting the questions detailed in the following paragraph, the Submitter notes that the following potential effects are addressed separately by Site Standards which trigger restricted discretionary activity consent control if breached:
 - a. Height of cut and fill and slope.
 - b. Engineering requirements for residential building platforms and retaining walls.

- c. Environmental protection measures, including sediment and erosion control, dust control and revegetation.
- d. Potential adverse effects of activities close to water bodies or which will affect aquifers.
- e. Potential effects on cultural heritage and archaeological sites.
- f. Construction noise.
- g. Potential effects on transmission lines.

4.3 Taking into account all of the above the Submitter asks:

- a. What does the volume control achieve, in terms of a consent trigger, that is not already achieved by the Site Standards summarised above?
- b. If all of the potential effects which arise under the Site Standards detailed above are addressed, what difference does it make (in respect of any particular site) whether the volume of earthworks excavated or deposited is 100m³, 200m³, 300m³, 400m³, 500m³, 1,000m³, 2,000m³ or 50,000m³?
- c. What assessment matters come into play upon breach of the volume control which do not come into play upon breach of any of the other Site Standards summarised above?
- d. What condition can be imposed as a consequence of the volume trigger control that cannot be imposed as a consequence of breach of the Site Standards summarised above?
- e. How many resource consents potentially will have to be applied for, processed, and paid for, in respect of earthworks activities which breach the volume control but which do not breach any of the other Site Standards [particularly given that a purported objective of PC49 to reduce consenting costs]?

Relief Requested

- 4.4 That all PC49 provisions which impose a earthworks volume trigger level for consent purposes, or which relate to an earthworks volume trigger control rule or requirement, be deleted.

5. **Bulk Earthworks**

- 5.1 Rule 22.3.2.4 introduces a new consent requirement requiring fully discretionary activity consent for earthworks with a total volume of over 50,000 cubic metres within one consecutive 12 month period. The Submitter contends that this new consent provision is unnecessary, and inappropriate, for the following reasons:
 - a. There is no identifiable difference between an earthworks activity involving 40,000m³ and an earthworks activity involving 60,000m³. The same issues arise. The same kinds of conditions can be imposed. The trigger level of 50,000m³ is meaningless.
 - b. If a volume 'trigger' control is retained, then the difference between restricted discretionary and fully discretionary has little meaning. The same considerations apply under both consent categories. The same conditions can be imposed. Consent can be refused if considered appropriate. The addition of a trigger level of 50,000m³, and the change in status from restricted discretionary to fully discretionary, is unjustified.
 - c. If the Submission Point above is accepted and any volume control is deleted, there is still no difference between an earthworks activity involving 40,000m³ and an earthworks activity

involving 60,000m³. The same Site Standards are relevant. Breach of any Site Standard will require consent. If none of the Site Standards are breached, there is no need for resource consent control because there will be no need to impose consent conditions.

Relief Requested

- 5.2 Delete Rule 22.3.2.4(b) Bulk Earthworks and all other plan provisions relating to that consent category.

6. **Notification**

- 6.1 The Submitter contends that Rule 22.3.2.6 Non-notification of Applications is far too restrictive. A primary objective of PC49 is to reduce consent compliance costs. There is no need to notify the vast majority of earthworks applications because the issues concerned can be adequately dealt with between the consent applicant and the Council without needing to involve anybody else. Rule 22.3.2.6 should be amended to provide for a default starting position that all applications for earthworks consent under Part 22 are dealt with in a non-notified basis (noting that of course the "*special circumstances*" provisions of the RMA are always applicable).
- 6.2 The primary exception to the previous point should be a breach of Rule 22.3.3.(ii) [height of cut and fill slope] where the breach relates to a distance of a cut or fill from the site boundary, in which case the starting presumption should be limited notification to the relevant adjoining landowner.
- 6.3 In addition to the above points, the Submitter notes that existing Rule 22.3.2.6 is badly drafted and is difficult to understand.

Alternative or Consequential Relief

7. The Submitter requests such alternative, additional or consequential amendments to the PC49 Plan Provisions as may be considered necessary or appropriate in order to address the issues raised in this submission.

I seek the following decision from the local authority:

As detailed above.

49/29

**RESOURCE MANAGEMENT ACT 1991
SUBMISSION ON PUBLICLY NOTIFIED PLAN CHANGE 49**

EARTHWORKS

TO: QUEENSTOWN LAKES DISTRICT COUNCIL

AND TO: Queenstown Lakes District Council
Private Bag 50072
QUEENSTOWN
Attention:
Email: services@qldc.govt.nz

NAME: Richard Burdon

Glen Dene Ltd makes this submission on Plan Change 49: Earthworks (PC49)

Summary Since the last plan took around 15 years to become operative and countless hours in and out of court most people are keen have a better process. To achieve this there are some key issues that need to be address.

- Cost of associated with doing business in QLDC is an important aspect to the farming business in the district.
- The uncertainty of the process and costs associated to consenting as well as the time taking to go through the process is a concern and why the farming community wish to see more permitted activities.
- The interference from the landscape industry. Eg doing a ten page report on a farm track.....
- There is a cost in protecting the landscapes; one suggestion is that the cost is waved on fee for farmers who want to apply for a farm dwelling, earthwork consent in ONL, that if you go through with the suggested changes.
- Farmers require the freedom to operate, and given the current process are not able to achieve this without very tight restriction.
- The landscapes we live in are working landscapes and are not a natural landscape.

Recognition of Farming Sector as a significant economic driver in the area

- The Upper Clutha has only two real drivers of economic activity, farming and tourism. The District Plan seems to concentrate almost exclusively on landscape considerations and ignores the need for communities to provide for their economic well being.
- Farmers are the custodians of our landscapes but bureaucracy and regulation is increasing that cost without any compensation
- Classification of "landscape zones" is yet another impediment to farmers running their business.
- Changes to the District Plan need to seek to regulate effects rather than land use

Glen Dene is concern that many farmers are not entirely aware of the zones that could be placed on their properties under with the review of the district plan, hence making some of the earthwork more complex for their property. Glen Dene believes if a farm is being run as a farming property then they should all be treated the same and it should not be based around landscape classifications. All rural general should be able to carry out reason levels of earthworks as a

permitted activity. The Rural general areas that are being farmed should not be complex and require input from Landscape planners who add unnecessary cost into a business.

Farmers will want detail landscape Zone if you have to complex earth work zones over farms.

- The detail Zone boundaries and maps required between ONL and VAL as many farmers would argue that only parts of their farms may fall into ONL not blanket areas this may cause the plan to get bogged down.
- Landscape protection vs. the right to farm is an important issue.

Submission Point: In General Glen Dene Supports

The Section 32 report and public notices issued for PC49 express that the aim of the Plan Change is to consolidate and simplify the requirements around earthworks in the District Plan. For example, the notified provisions as they relate to rural properties are more complex, and become more restrictive. Pursuant to the operative provisions, earthworks within an ONL are permitted up to 300m³, between 300m³ and 1000m³ are controlled, and above 1000m³ are restricted discretionary. The non-notification rule at 5.3.4 includes earthworks, so that applications under the operative earthworks rule will not be notified unless special circumstances exist.

PC49 proposes that any earthworks greater than a volume of 200m³ per site is a discretionary activity. Further, the provisions are changed so that the non-notification provision no longer applies. This is contrary to the publicised aims of the Plan Change.

By using volume per site, PC49 also fails to recognise that larger sites will often require larger volumes of earthworks, and that these larger volumes can be absorbed within a site. It is not equitable that the same level of earthworks that is allowed within say a 1000m² residential site is all that is allowed on a 2000ha farm. A sliding scale should be used that recognises the difference in scale and the ability to mitigate effects within larger sites.

The objectives, policies and assessment matters have become more complex and detailed. When assessing the earthworks we now must consider 27 policies. This is far more complex and detailed than the twelve policies currently in place.

Relief 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, especially if the farms still being managed for farming purposes.

Submission point - Complexity

The existing earthworks objectives and policies cover the range of adverse effects that may occur. There is currently one objective and six sub-objectives (or bullet points).

The Section 32 report states at page 26 that:

The principal aims of the District Plan review is to simplify the plan where appropriate and to provide greater clarity and certainty around development matters in the District. It is anticipated that this will remove some of the uncertainties that can restrict potential economic growth and associated employment provision.

However, the proposed provisions add a number of policies and assessment matters, with the number of policies increasing from 7 to 27. It is questioned why this is necessary, and how this

achieves a more streamlined approach. Likewise, currently all of the earthworks provisions as they relate to each zone are within that zone. This is changed so that a separate chapter of the Plan now has to be referred to when considering what earthworks controls apply.

It is submitted that this makes it more difficult to find the provisions that apply to each zone. Given that the District Plan is now used on-line, and this will become more and more common, it is questioned why the earthworks provisions are removed from each section. Retaining relevant provisions within each zone does not create complexity, but makes it easier to understand what can and cannot be done for the site in question. The number of pages used by the District Plan is not a measure of its complexity or difficulty to use and the goal should not necessarily be to reduce the number of pages, but to simplify interpretation of the plan.

Further, the number of assessment matters has increased. This, coupled with the number and complexity of policies, does not achieve a more streamlined approach.

Making the requirements for earthworks stricter within some zones, and including provisions that make it difficult to determine what rules apply to each zone (because the table refers to general areas rather than zones) than is currently the case, and increasing the number of objectives and policies and assessment matters does not achieve the goals of the plan change as expressed above.

Relief sought:

That Council withdraws PC49 and undertakes consultation to determine how best to achieve the purpose of the Act.

That, should the Council continue with PC49 as notified, that the provisions are amended to achieve the goal of streamlining the provisions. This could be achieved by:

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

Submission point – Farm Tracks

Earthworks for the formation of farm tracks should be considered as a permitted activity. The exemption for maintenance of tracks is supported, but this should be taken further and extended to include the formation of farm tracks across all the landscape zones if the property is being managed for farming purposes.

Submission point 7 - General submission

Other aspects of the Plan Change not supported by SPL are that it:

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

Relief sought:

That the Council withdraws Plan Change 49 and initiates consultation to determine how best to achieve the purpose of the RMA.

Richard Burdon wishes to be heard in support if this submission.

49/30

Form 5
Submission on publicly notified proposal for policy statement or plan, change or variation
Clause 6 of Schedule 1, Resource Management Act 1991

To Queenstown Lakes District Council
Private Bag 50072
QUEENSTOWN

Name of submitter: **Glencoe Station Limited** ('GSL')

This is a submission on **Plan Change 49 Earthworks** ('PC49') to the Queenstown Lakes District Plan.

GSL could not gain an advantage in trade competition through this submission.

The specific provisions of the proposal that my submission relates to are:

1. All issues, objectives, policies, rules, assessment matters, planning maps and other provisions of the District Plan affected by Plan Change 49, including (but not limited to):
 - a) Objective 4 Earthworks in Rural Areas and Ski Area Subzones
 - b) Policy 4.4 To provide for earthworks that provide for the growth, development and consolidation of ski fields within Ski Area Sub-Zones
 - c) Rule 22.3.2.1 (c) (ii) Ski Area Sub-Zone Exemptions
 - d) Rule 22.3.2.4 (b) Bulk Earthworks
 - e) Rule 22.3.2.6 (a) (iii) Non-notification of applications
 - f) Rule 22.3.3 (ii) (a) Height of cut and fill and slope
 - g) Rule 22.3.3 (iv) (c) Environmental Protection Measures
 - h) 22.4 Resource Consent Assessment Matters

My submission is:

1.0 INTRODUCTION

The Soho Ski Area

The Soho Ski Area is located within the Soho and Willow Basins at the northern end of Glencoe Station, a pastoral lease under the Land Act 1948 and adjoins the existing Cardrona Ski Area. The Soho Ski Area lies within the Cardrona Ski Area Sub-Zone identified within the Queenstown Lakes District Plan (Planning Map 10). GSL has a contractual agreement in place with the pastoral lease holder to enable it to develop the area of land within the Ski Area Sub-Zone as a ski area.

Background to Current District Plan Provisions

The majority of the earthworks rules within the Queenstown lakes District Plan were introduced through Variation 8 to the Proposed Queenstown Lakes District Plan. This was notified on 20 October 2001. Ski area operators were involved in this process and this is reflected in the current exclusion of earthworks within the Ski Area Sub-Zones. These current earthworks provisions were made operative in March 2005.

During this time, the Council was separately working through the resolution of appeals (then references) to decisions on the Proposed District Plan on the rules within the Rural Zone relating to Indigenous Vegetation and Alpine Environments. A Consent Order was issued from the Environment Court resolving the appeal by Royal Forest and Bird Protection Society Inc in March 2003. The Consent Order established the current rules relating to indigenous vegetation clearance that now apply within the ski area sub-zones. None of the ski area operators were parties to the Royal Forest and Bird Protection Society Inc appeal despite being significantly impacted by the provisions which resulted.

Significance of Ski Areas

The District Plan recognises the significance of the value of ski areas to the social and economic wellbeing of the community within the Rural Area provisions, in particular Objective 6 and related policies, which state.

Objective 6 -Ski Area Sub-Zone

To encourage the future growth, development and consolidation of existing Ski Areas, in a manner which mitigates adverse effects on the environment

6.1 *To identify specialist sub-zoning for Ski Area activities.*

6.2 *To anticipate growth, development and consolidation of skifields within Ski Area Sub-Zones.*

The Soho Ski Area is located within the Cardrona Ski Area Sub-Zone. The Queenstown Lakes District Plan identifies the purpose of the Ski Area Sub-Zone at Section 5.3.1.2 (Page 5-9), as follows:

Ski Area Sub-Zones are located within the Rural General Zone. The purpose of these Sub-Zones is to enable the continued development of skifield activities within the identified boundaries, where the effects of those activities are anticipated to be cumulatively minor.

For the avoidance of doubt, Ski-Area Sub-Zones are excluded from the landscape classifications used in the Plan (ie: Outstanding Natural Landscapes (Wakatipu Basin), Outstanding Natural Landscapes (District Wide) or Visual Amenity Landscapes.

Being only a sub-zone, all rules applicable to the Rural General Zone in the District Plan are applicable to the Ski Area Sub-Zones except where stated to the contrary.

GSL seeks for the Council to recognise and provide for the anticipated growth and development of ski fields within the Ski Area Sub-Zones within the PC 49 provisions and in particular to recognise the significant contribution that ski fields make to the social, cultural and economic well-being of the District's communities.

2.0 PROPOSED EARTHWORKS CHAPTER

PC 49 seeks to simplify and streamline the earthworks provisions in the District Plan by consolidating in one new chapter the provisions relating to earthworks together with the removal of the existing earthworks rules from within each zone. GSL supports the consolidation of earthworks provisions into one chapter and the deletion of the provisions out of the various zones within the District Plan. This approach will greatly streamline the District Plan.

PC 49 will amend the definition of Earthworks and introduce new definitions for Bulk Earthworks and Cleanfill. These definitions are:

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 Indigenous Vegetation, Mining Activities and Cleanfill Facilities.*

Bulk Earthworks: *Means Earthworks with a total volume greater than 50,000m³ and includes the use of cleanfill but excludes Mining Activities and Cleanfill Facilities*

Cleanfill: *means acceptable cleanfill material is strictly limited to – asphalt (cured), bricks, ceramics, concrete, fibre cement building products, glass, road sub-base, soils, rock, gravel and clay (refer to Ministry for the Environment, A Guide to the Management of Cleanfill, January 2002).*

GSL supports the introduction of the new definitions of Bulk earthworks and Cleanfill, subject to the modification of the application of the rules to Ski Area Sub-Zones (as detailed below).

3.0 OBJECTIVES AND POLICIES

PC 19 introduces a new set of objectives and policies that relates to earthworks activities. The new rules applying to the Ski Area Sub Zones are linked to new Objective 4 and Policy 4.4, which are as follows:

Objective 4 Earthworks in Rural Areas and Ski Area Subzones

Subject to Objective 2, to enable earthworks that improves efficiency of farming operations, health and safety and public recreation values.

Policy 4.4

To provide for earthworks that provide for the growth, development and consolidation of ski fields within Ski Area Sub Zones

Whilst Objective 4 has been made subject to the protection of landscape and amenity values (Objective 2), Policy 4.4 explicitly recognises the benefits of the development of ski fields. GSL supports Policy 4.4 that seeks to provide for earthworks associated with the growth, development and where possible consolidation of ski fields.

GSL considers that the wording of Objective 4 could be improved to recognise earthworks within Ski Area Sub-Zones (as identified in the heading to Objective 4) by removing reference to “public recreation values” Ski fields typically fit within the definition of a Commercial Recreation Activity and may not fit with the concept of “public recreation” (term not defined) that implies availability to the public at all times. The Soho Ski Area will not be located on land with rights of public access. Accordingly, GSL seeks to amend the wording of Objective 4 to enable earthworks that enables the development and operation of ski fields.

4.0 STATUS OF EARTHWORKS WITHIN SKI AREA SUB-ZONES

Overview of Proposed Rules

The new provisions list as permitted activities earthworks within the Ski Area Sub-Zones, where the following ‘exemptions’ apply:

- (i) Earthworks and bulk earthworks carried out in accordance with any relevant Conservation Management Plan or Concession approved by the Department of Conservation.
- (ii) Earthworks in the Ski Area Sub-Zones are exempt from Rule 22.3.3(i) Volume of Earthworks.

Under this framework, there are two sets of applicable rules, depending on whether earthworks activities within the Ski Area Sub-Zone are being carried out on land managed by the Department of Conservation (‘DoC’), or not. Where earthworks occur on DoC land and approved by DoC through a concession, they are a permitted activity and none of the site standards apply.

For earthworks occurring within Ski Area Sub Zones on all other sites, these are exempt from the Volume of Earthworks (Rule 22.2.3(i)), but otherwise will need to meet the site standards within Rule 22.3.3.

For the most part the standards within Rule 2.3.3 are permissive and through the implementation of appropriate site controls should be able to be satisfied without the need to gain consent. The two main issues that may trigger the requirement for earthworks consent under PC 49, associated with the Soho Ski area are:

- a) The bulk earthworks rule, where all earthworks greater than 50,000m³ in volume over a 12 month period are now listed as a discretionary activity; and
- b) The height of cut and fill slopes.

Under the PC 49 rules any earthworks occurring within the Ski Area Sub Zones are subject to the non-notification clause. It is unclear whether this would also apply to bulk earthworks within the Ski Area Sub Zones. By way of comparison, the current provisions of the operative District Plan exempt all earthworks within Ski Area Sub Zones. That exemption applies to the volumes of earthworks as well as the height of cut and fills and each of the environmental protection measures.

Earthworks within the Ski Area Sub-Zones

Part of the rationale for the change to the status of earthworks within the Ski Area Sub-Zones is explained within the Queenstown Lakes District Council's Section 32 Report. Section 6 of the report identified a number of problems with earthworks provisions within the operative District Plan. In particular, section 10 of the report states:

The Ski Area Sub-Zones are exempt from the normal earthworks rules in the Rural General zone. On one hand, this permissive regime has been adopted to enable the development of the ski fields, recognising their importance in contributing to the social and economic well-being of the community. On the other hand, this approach appears inconsistent with other earthworks rules in the District Plan, where volumes as small as 100m³ require resource consent, even on flat land zoned for development. Earthworks in steep, elevated locations such as the Ski Area Sub- Zones do have the potential to have environmental effects, and it takes a long time for vegetation to re-establish. Consideration could be given to applying some or all of the Environmental Protection Measures to earthworks in the Ski Area sub-Zones, so that as a minimum, erosion and sediment controls are implemented. Alternatively, an approach adopted elsewhere through the District Plan Review, is to permit earthworks that have been consented to by the Department of Conservation, to avoid duplication in process.

GSL agrees that in some, but not all, circumstances vegetation is relevant to the mitigation of the effects of earthworks. However, the Section 32 report fails to identify and evaluate how other rules within the rural general zone already capture earthworks through the associated clearance of indigenous vegetation on land above 1,070 masl.

Within the Cardrona Ski Area Sub-Zone and the Soho and Willow Basins, reporting by MWH identifies the vegetation and habitats include tussock grasslands, cushionfields, wetlands, bluffs, screes, rockfields, fellfields and snowbanks. Apart from limited areas of exposed rock, earthworks will also require resource consent as a restricted discretionary activity under Rule 5.3.5.1(x) 'Indigenous Vegetation' and Rule 5.3.5.1(xii) 'Alpine Environments'.

In terms of the indigenous vegetation clearance, the Council restricts its exercise of discretion to effects on nature conservation values, landscape and amenity values and the natural character of the rural environment.

It follows that earthworks are likely to trigger a requirement for resource consent for the clearance of indigenous vegetation and those rules specifically address the actual and potential effects of earthworks activities as well as the outcomes sought by Objective 2 (landscape and visual amenity values) and Objective 4 (earthworks in rural areas and ski area subzones) stated in PC 49.

On this basis, GSL considers that there is no need for the Council to impose additional rules relating to earthworks within the Ski Area Sub Zones. In particular, GSL seeks to amend the permitted activity rule to include earthworks and bulk earthworks in all ski area sub zones, regardless of whether or not they occur in accordance with any relevant Conservation Management Plan or Concession approved by DoC.

5.0 RULES

5.1 Rule 22.3.2.4 – Bulk Earthworks

Under the new definition, any volume of earthworks greater than 50,000 m³ will fall within the definition of 'Bulk Earthworks'. Bulk earthworks are listed as a discretionary activity under Rule 22.3.2.4(b).

The main driver for the bulk earthworks rules as noted in the Section 32 report is the visual impact of unfinished earthworks arising from construction projects that have not been completed. This is reflected within the related assessment matters for bulk earthworks that address matters such as the integration of subdivision and land use activities, mitigation of visual effects by building, and the use of legal instruments to ensure works are completed.

GSL submits that the situation with bulk earthworks in ski areas is different to the issues experienced within urban environments that depend on subdivision and building activities to mitigate effects. Within the Ski Area Sub Zones, earthworks can be of a comparatively larger scale but are not necessarily linked to subdivision or building development (eg ski tracks and trails). The effects of earthworks are linked to a much greater extent to indigenous vegetation clearance. In particular, the use of vegetation as a key measure to remedy or mitigate effects on nature conservation values, landscape and amenity values.

For these reasons, GSL is opposed to the Bulk Earthworks rule applying within the Ski Area Sub-Zones and seeks to have these areas exempt from the rule.

5.2 Rule 22.3.2.6 – Non-notification of applications

Rule 22.3.2.6(iii) states that:

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-notification:

(iii) Ski Area Subzones

It is unclear whether bulk earthwork occurring within the Ski Area Sub-Zones would fall within the ambit of the non-notification rule. It would appear from Rule 22.3.2.4 (b) that bulk earthworks are classified as a discretionary activity and therefore an application for this type of activity could potentially be subject to full notification procedures. This creates additional uncertainty in the resource consenting process.

GSL seeks to amend Rule 22.3.2.6 (a) (iii) to ensure all Earthworks and Bulk Earthworks activities, including resource consents required in respect to any site standards, are included within the non-notification of applications rule.

5.3 Rule 22.3.3 (ii) Height of cut and fill and slope

GSL opposes the restrictive standards relating to the height and angle of cut and fill batters, applying to earthworks within a Ski Area Sub-Zone, which is not under Department of Conservation management.

Rule 22.3.3 (ii) (a) sets out the following standards for earthworks within the Rural general, Gibbston Character Zone and Ski Area Sub-Zones:

- (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*

These standards are overly prescriptive and will create uncertainty in terms of resource consent. GSL seeks to exempt earthworks and bulk earthworks activities from this rule, because:

- a) Mitigation of the effects of cut and batters can be addressed as part of any resource consent required for the clearance of indigenous vegetation; and
- b) Rule 23.3.3 (iv)(c) Environmental Protection Measures requires that where any vegetation clearance associated with earthworks results in areas of exposed soil, these areas shall be re-vegetated as soon as practicable taking into account planting seasons provided this shall be no longer than 12 months from the completion of the works.

These provisions generally apply to the undertaking of earthworks, and therefore will reduce the potential risk of erosion and land instability.

Relief Sought

GSL seeks the following decisions from the local authority:

1. To modify the PC 49 by amending the provisions as outlined below, or in any other manner that will give effect to the submissions set out in paragraphs 1.0 to 5.0 of this submission, including but not limited to the relief outlined below;
2. To modify Objective 4, as follows:

Objective 4 Earthworks in Rural Areas and Ski Area Subzones
Subject to Objective 2, to enable earthworks that improves efficiency of farming operations, health and safety, and public recreation values and the development and operation of ski fields.
3. To modify the permitted activity Rule 22.3.2.1 (c) (ii), to provide an exemption for all earthworks and bulk earthworks undertaken within Ski Area Sub-Zones where those works also trigger a requirement for resource consent under the clearance of indigenous vegetation under either Rule 5.3.5.1(x) or Rule 5.3.5.1(xii)(Part 5 Rural Areas), from the following rules and standards that apply to earthworks activities:
 - i. Rule 22.3.2.4 (b) Bulk Earthworks;
 - ii. Rule 22.3.3.(i)(a) to (c) The volume of earthworks (as notified)
 - iii. Rule 22.3.3 (ii) (a) The height of cut and fill and slope
4. To modify the rules and standards that apply to earthworks and bulk earthworks activities within ski area sub-zones, as follows:
 - (a) Modify Rule 22.3.2.4(b) Bulk Earthworks to exempt all earthworks undertaken within a Ski Area Sub-Zone; and
 - (b) Modify Rule 22.3.2.6 (a) (iii) Non-Notification of Applications to include all earthworks and bulk earthworks undertaken within a Ski Area Sub-Zone; and
 - (c) Modify Rule 22.3.3 (ii) (a) height of cut and fill and slope, to exclude earthworks and bulk earthworks occurring within a Ski Area Sub Zone; and

5. To make such further, additional or consequential changes to any relevant part of the District Plan as are considered necessary to address the issues and concerns raised in this submission and otherwise give effect to the relief sought.

GSL wishes to be heard in support of its submission.

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

Grant Eccles

authorised to sign on behalf of Glencoe Station Ltd

30 July 2014

Date

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