

49/41

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: Mike Mee
P O Box 2174
Wakatipu 9349

Mike Mee makes this submission on Plan Change 49: Earthworks (PC49)

Submission Point 1: General

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. The public notice and section 32 reports are therefore misleading and the Plan Change should be renotified to ensure that submitters understand what the changes mean in practice.

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

That the renotified provisions achieve the aims of the Plan Change as expressed in the public notice and Section 32 report; that is, to make earthworks more permissive, more streamlined and less complex.

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.

Submission Point 2- Objectives:

Objective 1 refers to 'avoidance' of adverse effects. Many adverse effects resulting from earthworks are temporary and can be remedied or mitigated, and therefore it is important that the objective includes reference to 'mitigation' and 'remediation'.

This also applies to Policy 1.2, which refers to use of environmental protection measures to 'avoid' adverse effects. While it is correct that some of those effects should be avoided, for instance, sediment run-off, deposition of sediment onto roads is an effect that can be remedied. In addition, 'mitigation' can be used to reduce dust effects, and may be a more practical term to use than 'avoidance'.

It is unclear how policy 3.3, which is to avoid earthworks including tracking on steeply sloping sites and land prone to erosion and instability, and policies 4.1, 4.2 and 4.3, which promote earthworks which may be in those locations, but which are 'provided for' are related. Likewise, Objective 2 and policies 2.1 and 2.2 are to avoid adverse effects on earthworks on the ONL and on visually prominent slopes, whereas Objective 4 and associated policies which are specific to rural areas (which are primarily ONL) are at odds with that objective, given that they are to 'provide for' earthworks for certain purposes.

Relief sought:

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

That, should the Council decide not to withdraw PC49, the objectives and policies are amended to recognise that it is not necessary to 'avoid' effects, but to recognise that adverse effects can be 'remedied' or 'mitigated'.

That consideration is given to how the proposed objectives and policies relate to one another.

Submission point 3- Definition of earthworks

Currently, the definition of earthworks excludes removal of soil for the purposes of planting trees. This has changed such that it is only the planting of indigenous vegetation that is excluded from earthworks. It is questioned why this has occurred; have there been irreversible environmental effects resulting from tree planting? How can the effects be different between indigenous and non indigenous tree planting?

The Section 32 report states at page 42 that:

The definition in the Operative Plan has been generally effective and efficient. The modifications propose are minor in terms of cost, when read in conjunction with the new provisions in Section 22.

The issues section of the Section 32 report does not identify any issues with exempting tree planting from the earthworks requirements. It is therefore questioned why this change is promoted.

Relief sought:

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

That, should the Council decide not to withdraw PC49, the definition of earthworks is not changed as it relates to the exemption of the planting of trees, landscaping etc.

Submission point 4- 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 5 – 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.

Relief sought:

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

Submission point 6 - Trails

The Section 32 report states that the maintenance of trails is exempt from the definition of earthworks, and that trails are provided for via Objective 4. However, PC49 is placing greater restriction on the development of recreational trails than what is currently the case.

It is only maintenance that is less than a 10% increase in the area of exposed soil that is exempt from the earthworks definition. Given the slopes on which the recreational trails are located, it is likely that maintenance will require more than 10% increase in exposed soil. As an example, the trail running alongside the Kawarau River adjacent to the RPZ and also below the Shotover River confluence has slips that require maintenance, and until those trails and associated landscaping mature, ongoing slips albeit with decreasing frequency are to be expected. It is not efficient or effective to require resource consent each time these trails are maintained. Further, as identified above, it is unclear as to how Objectives 2 and 4 are to be balanced.

Many trails are located in the ONL. Contrary to the introductory statements of the public notice and the Section 32 report, the provisions as they relate to earthworks in the ONL are being made more stringent. These more stringent provisions apply to trails, and this is opposed.

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, the rules for maintenance and creation of trails are more permissive, recognising the importance of trail development and maintenance for this District.

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.

Mike Mee



30 July 2014

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: **Millbrook Country Club Ltd (MCC).**

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

1. MCC could not gain an advantage in trade competition through this submission.
3. MCC is the primary developer of the Millbrook Resort which includes residential, visitor accommodation and commercial activities, associated facilities and landscaping and a 27 hole golf course. Developing and maintaining these facilities in accordance with the provisions of the Resort Zone of the operative district and its Millbrook Structure Plan means that from time to time MCC necessarily undertakes works that would be considered earthworks under proposed PC49.
4. MCC has responsibly undertaken earthworks for more than 20 years, in the process of creating valuable tourism and community facilities, and improving the water quality of Mill Creek, which traverses the site. This has been undertaken in the absence of any applicable earthworks rules in the Millbrook section of the Resort Zone. MCC therefore considers that the proposal to introduce objectives, policies and rules governing earthworks in the Millbrook part of the Resort Zone is unnecessary.
5. Further, the introduction of an earthworks regime into the Millbrook section Resort Zone would not serve the purpose of the RMA. The primary relief sought by MCC is therefore:

To amend PC49 such that it is not applicable to the Millbrook section of the Resort Zone

6. In particular, MCC is concerned with the proposal to make subdivisions involving more than 50,000 m³ of earthworks a discretionary activity. The proposed Bulk Earthworks rules appear unjustified and it is not clear what resource management purpose they are intended to achieve.
7. The proposed bulk earthworks provisions would create an unjustified level of uncertainty which could significantly inhibit MCC's ability to carry out its business. Millbrook seeks the following relief in the event that its primary relief is declined:

That provisions relating to bulk earthworks in both the proposed Earthworks section and Subdivision section be deleted.

8. MCC requires as part of its golf course operation to undertake earthworks. Millbrook notes a proposed specific rule for managing earthworks relating to golf courses in the Jacks Point part of the Millbrook Zone. While that rule would appear to be excessively restrictive, Millbrook seeks the following secondary relief in the event that its primary relief is declined:

That specific rules enabling large scale earthworks in relation to golf course maintenance and development be created for the Millbrook section of the Resort Zone.

9. MCC 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. MCC does not believe there is an existing weakness in the objective and policy framework of the District Plan which has enabled inappropriate adverse effects from earthworks on landscape and visual amenity values. MCC therefore seeks the following further relief in the event that its primary relief is declined:

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

10. Land owned by MCC is identified as being subject to tiers 2-7 in Table 22.1. MCC considers that there is no justification for the introduction of a maximum volume of earthworks associated with residential development in the Millbrook section of the Resort Zone (as per proposed Table 22.1). It is not clear what environmental effect or resource management purpose this rule is seeking to address. MCC seeks the following relief in the event that its primary relief is declined:

That the proposed maximum volume of earthworks as it applies to the Millbrook part of the Resort Zone be deleted.

11. MCC seeks 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.

12. MCC 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



MOUNT FARM VENTURES

30th July 2014

Mr Tony Pickard
Queenstown Lakes District Council
Private Bag 50072
QUEENSTOWN 9348

Attention: Policy Team – Plan Change 49

By e-mail: services@qldc.govt.nz

Dear Sir,

Submission to Plan Change 49 lodged by Mount Farm Ventures Limited

1.0 Introduction

This submission sets out Mount Farm Ventures Limited's ('**Mount Farm's**') formal response to the Council's proposed Plan Change 49 (Earthworks) ('**PC49**') and relates specifically to the earthworks provisions relevant to the Bendemeer Special Zone ('**BSZ**').

Mount Farm

Mount Farm is owned and controlled by Alistair Jeffery, who is the Founder and Executive Chairman of Bluestone, a specialist servicer, asset and capital manager and lender. This business was established in 2000 by Alistair and he has been the Chairman since 2007.

Mount Farm purchased 23 lots in the BSZ and Alistair transferred a lot he effectively owned to Mount Farm in August and September of 2011. Mount Farm shortly thereafter commenced a programme of repairing and repositioning its sites and the BSZ in general, as well as putting in place a marketing strategy centred on the staged release of the lots to both the national and international markets. The marketing strategy is aimed at seeing Bendemeer developed in the short and medium terms.

Context

This submission sets out Mount Farm's response to PC49 and seeks to respond to issues that are of particular relevance to enabling development within the BSZ.

By way of background, Mount Farm was heavily involved with the earlier review of the BSZ, which was ratified by the then Strategy Committee in late January 2012. Since this time, the Council has elected to advance a targeted District Plan Review, with any zone specific reviews not likely to occur until mid 2016.

As part of Mount Farm's earlier response to the BSZ Issues & Options Consultation, Mount Farm recommended changes to the earthworks standards that sought to bring additional certainty and clarity to the way in which earthworks provisions applied within the BSZ. This was largely due to the contradictory earthworks standards that apply to the same geographical area within the BSZ. The central thrust of PC49 is to ensure greater consistency across the District and removes the contradictory earthwork standards that apply to areas, such as the BSZ.

An important distinction with the BSZ that is not identified in the section 32 report supporting PC49 is that the area of land within the BSZ was subdivided in 2003 into 37 lots with a building platform on each residential lot (RM020776). Further, a land use consent was approved under RM020776 which provided for the construction of 36 single residential units, garages and/or accessory buildings within the confines of the building platforms provided for on each of the rural-residential allotments created by way of the above subdivision. Essentially, the combined subdivision and land use consents provided for under RM020776 establishes the development baseline envisaged for the BSZ. Through this submission, Mount Farm wishes to ensure that the earthworks standards advanced under PC49 appropriately recognise and provide for the development rights that exist over Bendemeer and that these rights are not unnecessarily constrained.

2.0 Submissions

2.1.1 Proposed Earthwork Standards As they Apply to the Bendemeer Special Zone

- (a) Mount Farm supports the central thrust of PC49 and the rationalisation of earthwork standards across the District.
- (b) Mount Farm understands that under PC49 all zones have been grouped into seven tiers with earthwork thresholds ranging from 100m³ to 1000m³. It is understood that the tiers reflect the sensitivity of the receiving environments, scale of development anticipated and the ability to internalise adverse effects on larger sites. The Company understands that the BSZ would fall within Tier 4, which provides for a 400m³ volume threshold.
- (c) Mount Farm supports the deletion of the area threshold in favour of volume only thresholds as provided for under PC49 (set out in Table 22.1).
- (d) Mount Farm also supports the removal of the contradictory earthworks rules applicable to the BSZ. Currently, the BSZ has two different rules for earthworks (under Site Standard 12.9.5.1 (iii) and (iv)). Site Standard 12.9.5.1 (iv) is more specific to the special zone and provides for earthworks of 1,000m³ and 2,500m² in area. Site Standard 12.9.5.1 (iii) on the other hand applies a more 'standard' earthworks rule used in urban zones and provides for a 100m³ volume threshold and 200m² area threshold. In the case of the 100m³ volume threshold and 200m² area threshold, these are easily triggered by development within the BSZ, which adds both time and costs delays to the overall development of this zone.
- (e) The Company supports the removal of the contradictory earthworks rules that apply to the BSZ, it is concerned to ensure that the volumetric threshold that applies to the BSZ appropriately reflects the development rights that are established for this zone.
- (f) The Company wishes to ensure that better recognition is provided in the rule framework supporting PC49 to situations, like the BSZ, where the development rights across the zone have already been established. The section 32 report does not acknowledge that some zones may already have established development rights and fails to draw a distinction to the fact that the BSZ is already provided with a higher 1,000m³ volume threshold (under Site Standard 12.9.5.1 (iv)).¹
- (g) The section 32 report in discussing Tier 4 Zones in Table 22.1 states that "*[m]any of these zones in the Operative Plan had a 100m³ threshold which does not provide for the scale of building anticipated in these zones, reflect the larger sites within rural living zones within which effects can be mitigated or the desirability to promote more intensive building development within higher density residential zones. The increase to 400m³ is aimed to enable development anticipated and will work in*

¹ The monitoring report does acknowledge that Bendemeer has two earthwork standards, one of which reflects a rural scale earthworks rule.

*conjunction with the Environmental Protection Measures which require sediment and dust control etc.*²

- (h) While Mount Farm acknowledges that Bendemeer is located within an elevated zone, the existing 1,000m³ volume threshold provided by Site Standard 12.9.5.1 (iv) reflects:
- (i) The development parameters set by the approved 1,000m² residential building platforms and the maximum 500m² building coverage provided for within each residential lot; and
 - (ii) The additional 500m² commercial development provision provided for within Activity Area 10 as set out under Zone Standard 12.9.5.2 (iv); and
 - (iii) The maximum 3,000m² development provision provided for commercial, visitor accommodation and associated residential activities located within Activity Area 9 and as provided for under Zone Standard 12.9.5.2 (iii) of the BSZ.
- (i) Mount Farm has reviewed those existing resource consents that have been recently granted by the Council to some of the landowners of Bendemeer and notes that because of the maximum building coverage provided for within the BSZ, the earthworks volumes frequently exceed 1,000m³.³ This points towards the Tier 4 threshold volume being too low for zones such as BSZ. In doing so, it highlights a contradiction between the proposed rule and the other, already existing and accepted, development parameters provided for the zone. The Company, therefore, wishes to ensure the BSZ is supported with an earthworks threshold of no less than 1,000m³ and that Table 22.1 is amended to reflect this relief.
- (j) Mount Farm notes that the non-notification clause under 22.3.2.6(a) of PC49 does not accommodate or refer to those zones that, as mentioned above, contain established and accepted development rights. The Company considers that where earthwork activities within BSZ are wholly contained within an approved residential building platform, that any consent process should be advanced on a non-notified basis. This request is predicated on:
- a. The visual and amenity related effects associated with any earthworks contained within an approved building platform are well understood and therefore not trigger the need for approval of adjoining landowners or parties outside of the zone; and
 - b. The matters of concern, such as sediment being discharged from the site into infrastructure, rest between the applicant and the consent authority. Consequently, there is no need to involve third parties.

RELIEF SOUGHT

- (a) That an 'area threshold' not be introduced into the BSZ via Plan Change 49;
- (b) That the Bendemeer Special Zone be supported with an earthworks threshold of no less than 1,000m³ within Table 22.1 of PC49;
- (c) The non-notification clause under 22.3.2.6(a) of PC49 be amended as follow:

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

- (i) *Rule 22.3.3 i Volume of Earthworks in Tier 5 Zones (see Table 22.1), except where the site adjoins a Residential Zone, Open Space Zone or an Activity Area in a Special Zone for Residential or Open Space activities.*
- (ii) *Rule 22.3.3 i Volume of Earthworks in the Remarkables Park Zone.*

² page 54 of the section 32 report.

³ Resource consent RM110686, provided for a proposed cut is 1530m³ and occurred over an area of 2,620m², Resource consent RM140064 included 5,274m³ of earthworks and created 5,274m² of exposed area, Resource consent RM140055 provided for a volume of 300m³ and generated an exposed area of approximately 900m².

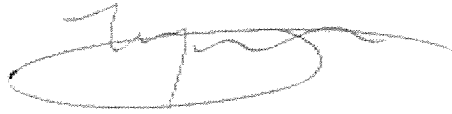
- (iii) *Ski Areas Subzones*
- (iv) *Earthworks – except for earthworks involving special circumstances such as blasting, presence of substantial groundwater (including but not limited to the Wanaka Basin Cardrona Gravel Aquifer as shown in Appendix A4- Interpretative Diagrams, Diagram 11) or earthworks located within any required building setback from an internal or road boundary. (Refer to 7.5.4 (iv))*
- (v) *Any earthworks undertaken within and confined to an approved residential building platform located within the Bendemeer Special Zone.”*

3.0 Conclusion

Mount Farm wishes to be heard in support of this submission.

Mount Farm cannot gain an advantage in trade competition through this submission.

Signature:



Pp

Sarah Cairns, for and on behalf of Mount Farm Ventures Limited

Date: 30th July 2014.

Address for Service: Mount Farm Ventures Limited
177 Glenda Drive
PO Box 261
Queenstown 9348

Attention: Ms Sarah Cairns

Telephone: (03) 746-7101

E-mail: sarah.cairns@mfvl.co.nz

49/44



RMA Form 5
Submission on a publicly notified plan change
Clause 6 of First Schedule Resource Management Act 1991

To: Queenstown Lakes District Council
Private Bag 50027
Queenstown 9348

Name of submitter: Otago Regional Council

This is a submission on the proposed plan change:

- Plan Change 49 Earthworks (the draft)

OVERVIEW

The specific parts of the proposal that this submission relates to are:

- Protection of surface water bodies and aquifers
- Natural Character
- Indigenous biodiversity and ecosystem values

This submission is:

The Otago Regional Council (ORC) supports the plan change subject to the recommended changes in this submission

Decision Requested

The Otago Regional Council seeks the following decision from the Queenstown Lakes District Council (QLDC):

That all concerns raised in this submission are addressed sufficiently to resolve the ORC's concerns when making a decision on the plan change.

Discussion:

Purpose (Section 22.1)

1. A clearer link should be made between the narrative and the requirements of the ORC's Water Plan, particularly on ground water matters. The draft references four named aquifers but many others aquifers are not yet mapped or named but are still relevant. ORC would suggest rephrasing the reference to:

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

The reference to the National Policy Statement Freshwater Quality (2011) should refer to the National Policy Statement Freshwater Management (2014).

Objectives and Policies (Section 22.2)

2. ORC has some concern around the defensibility of the objectives and policies as they are worded in a very similar manner.

Objective 5 Water bodies

3. Policy 5.2 discusses the location of earthworks in close proximity to water bodies. The definition of earthworks excludes cultivation, mining and cleanfills. It is equally relevant that these activities avoid close proximity to water bodies and the effects of any such proximity are addressed.
4. Policy 5.3 should ensure activities also avoid penetrating aquifers.

Natural Character

5. The preservation of the natural character of wetlands, lakes and rivers and their margins and the protection from inappropriate subdivisions, use and development is a matter of national importance under s6(a) of the Resource Management Act 1991.
6. Earthworks can adversely affect the natural character of the margins wetlands, lakes and rivers and this in turn increases the likelihood of adverse effects on water bodies themselves.
7. The protection of natural character of wetlands, lakes and rivers and their margins should be identified in the policy framework and in matters over which Council has reserved control in relation to rules and associated assessment matters for controlled and discretionary activities.
8. As part of the review of the Regional Policy Statement, ORC is considering management natural character on the margins of wetlands, rivers and lakes. This may include earthworks and proximity of these to waterbodies.

Indigenous biodiversity and ecosystem values

9. The draft should clarify that earthworks relating to areas identified as containing indigenous biodiversity will be covered by other rules and consequently are not covered by the policy framework for this plan change.

Rules (Section 22.3)

Archaeological sites (Rule 22.3.1.iv(a))

10. Please note the Historic Places Act 1993 has been repealed. It has been replaced by the 'Heritage New Zealand Pouhere Taonga Act 2014'.

Controlled, restricted and discretionary Activities (Rule 22.3.2.2)

11. As identified above, the preservation of the natural character of wetlands, lakes and rivers and their margins can be adversely effected by earthworks.

12. ORC considers that the effects of earthworks on the natural character of wetlands, lakes and rivers and their margins should be a matter over which Council reserves control for controlled activities and an assessment matter for discretionary activities to enable these effects to be assessed and appropriately addressed.

Open Space zones (Rule 22.3.2.2 (d))

13. Currently Open Space zones are limited. If there is any intention to increase the number of Open Space zones it may be appropriate to include other matters over which Council has reserved control, in particular the effects on water bodies and natural character.

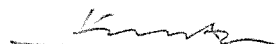
Site Standards (Section 22.3.3)

Water Bodies (22.3.3.v)

14. There is no time limit in relation to how frequently 20m³ of earthworks can be undertaken within 7m of a water body. This contrasts with rule 22.3.3.i which provides both a volume and time period. As this is a permitted standard and there is no time limit there is a real risk this will be interpreted as the right to undertake this volume as many times as desired as a permitted activity.
15. There is the opportunity to standardise terminology between the ORC's water plan and the district plan. Therefore, it is recommended 'penetration' should replace 'Exposure' (site standard 22.3.3 v (c)(i)) as well as adding 'or contaminate' in reference to protecting any groundwater aquifer.

The ORC does not wish to be heard in support of this submission.

If others make a similar submission, the ORC will not consider presenting a joint case with them at a hearing.



Fraser McRae
Director Policy and Resource Planning

30 July 2014

Address for service of submitter: Otago Regional Council
Private Bag 1954
DUNEDIN

Telephone: (03) 474 0827

Email: warren.hanley@orc.govt.nz

Contact person: Warren Hanley
Resource Planner – Liaison

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



Policy - Plan Change

YOUR DETAILS

Your Name: Paterson Pitts Partners (Wanaka) Ltd

Your Address:

Postal Address for Service: PO Box 283 Wanaka 9343

Phone Number: (03) 443 0110 (Work) (Home)

Fax Number: E-mail: duncan.white@ppgroup.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:

The entire 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)

Support the entire plan change

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

Approve the plan change

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.

Signature - to be signed for or on behalf of submitter

Date 30/07/14

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

Environmental Consultants
PO Box 489, Dunedin 9054
New Zealand
Tel: +64 3 477 7884
Fax: +64 3 477 7691

By Email

29 July 2014

Our Ref: 8989

Queenstown Lakes District Council
Private Bag 50072
QUEENSTOWN

Attention: Policy Team – Plan Change 49

Dear Sir/Madam

**RE: QUEENSTOWN AIRPORT CORPORATION - SUBMISSION ON PLAN
CHANGE 49: EARTHWORKS**

On behalf of the Queenstown Airport Corporation, please find enclosed a submission on proposed Plan Change 49: Earthworks.

Yours sincerely,
MITCHELL PARTNERSHIPS LIMITED



K O'SULLIVAN

Email: kirsty.osullivan@mitchellpartnerships.co.nz

Enc

cc: Sean Thompson

Queenstown Airport Corporation

**SUBMISSION ON THE PUBLICALLY NOTIFIED PLAN CHANGE 49
TO THE OPERATIVE QUEENSTOWN LAKES DISTRICT PLAN UNDER CLAUSE 6 OF
THE FIRST SCHEDULE OF THE RESOURCE MANAGEMENT ACT 1991**

To: Queenstown Lakes District Council
Private Bag 50077
QUEENSTOWN

Name: Queenstown Airport Corporation ('QAC')

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

1. **This is a submission on behalf of the QAC with respect to proposed Plan Change 49 Earthworks, to the Queenstown Lakes District Plan.**
2. **QAC could not gain an advantage in trade competition through this submission.**
3. **Overall issues that have determined the approach of QAC in preparing submissions on Proposed Plan Change 49: Earthworks are as follows:**
 - 3.1 QAC operates the regionally significant Queenstown and Wanaka Airports.
 - 3.2 Queenstown Airport is the main Airport in the Queenstown Lakes District and is the primary take-off and landing point for much of the aircraft activity in the District. The Airport accommodates aircraft movements associated with scheduled, general aviation and helicopter operations, and is one of the busiest airports in the country. For the year ending March 2014, total passenger numbers at Queenstown Airport were in excess of 1.237 million passengers. The airport has experienced a sustained period of growth, with passenger numbers expected to increase over the coming years as the district receives an increasing number of domestic and international visitors.
 - 3.3 Queenstown Airport is managed by QAC. QAC is a requiring authority in terms of the Resource Management Act 1991 (the RMA) and the Airport site is designated for "Aerodrome Purposes" (Designation 2) and for "Approach and Land Use Control" (Designation 4) in the District Plan. The extent of these designations is shown on the Planning Maps 31a and Figures 1 and 2.

- 3.4 Wanaka Airport accommodates aircraft movements associated with scheduled, general aviation and helicopter operations and is a major provider of commercial helicopter operations within the District.
- 3.5 The Queenstown Lakes District Council are the requiring authority for Wanaka Airport, with QAC managing the operations of this airport on the requiring authorities' behalf. Wanaka Airport is designated for "Aerodrome Purposes" (Designation 64) and for "Approach and Land Use Control" (Designation 65) purposes in the District Plan.
- 3.6 When QAC undertakes earthworks in association with an activity or work identified in its designation, an outline plan of works provides for the management of earthworks and any associated effects. Earthworks consent is therefore generally not required.
- 3.7 Notwithstanding 3.6, QAC's general consideration of the earthworks provisions of the District Plan is still necessary in many circumstances.
- 3.8 When QAC (or any other requiring authority) gives its notice of requirement for a new designation or an amendment to an existing designation, a statutory assessment of the proposal is often set out in documentation supporting the notice of requirement. This will often include an assessment of the notice of requirement against the relevant objectives and policies of the District Plan.
- 3.9 If a requiring authority undertakes work beyond the scope of its designation or beyond the boundaries of its designation, the provisions of the District Plan prevail. Similarly if a third undertakes earthworks within the District (either within or beyond the boundaries of the designation), the provisions of the District Plan prevail.
- 3.10 It is on the basis of paragraphs 3.8 and 3.9 that QAC makes the following submission.

4. QAC's Specific Submissions:

- 4.1 QAC recognises that earthworks are a necessary part of subdivision and development throughout the District. When managing the effects of such activities on the wider receiving environment, QAC supports the use of measures and controls that seek to avoid, remedy or mitigate the adverse effects of earthworks activities, including the potential adverse effects on overhead aircraft.
- 4.2 QAC has a range of measures available to it under civil aviation laws to require activities to cease if there are reasonable grounds to consider that the activity is resulting in a breach of its obstacle limitation surfaces or the activity is generating adverse effects on flight safety. Notwithstanding this, QAC supports the use of environmental management plans and when necessary, the Territorial Authority's prompt enforcement of these plans, to ensure that QAC does not have to take reactive measures under such legislation.
- 4.3 QAC considers that it is also important for the plan to recognise that a balance is sometimes necessary between achieving environmental outcomes and enabling

people and the community to provide for their ongoing social and economic wellbeing.

- 4.4 QAC has therefore identified where it considers amendments to the proposed provisions are required to achieve the balance between managing effects and providing for the social and economic wellbeing of the community. QAC's specific submissions in relation to Proposed Plan Change 49: Earthworks are attached in Table 1.
5. **QAC seeks the following decision from the Queenstown Lakes District Council:**
- a) That the relief sought and/or amendments (or those with similar or like effect) outlined in **Table 1** be accepted;
 - b) Such further or other relief as is appropriate or desirable in order to take account of the matters expressed in this submission.
6. **QAC wishes to be heard in support of their submission.**
7. **If others make a similar submission, QAC would be prepared to consider presenting a joint case with them at any hearing.**

Signature:



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

Date:

29th July 2014

Address for service:

Queenstown Airport Corporation
C/- Mitchell Partnerships
PO Box 489
DUNEDIN

Attn: Kirsty O'Sullivan

Telephone:

(03) 477 7884

Email:

kirsty.osullivan@mitchellpartnerships.co.nz

ATTACHMENT 1

Table 1 - QAC's Specific Submissions on Plan Change 49

TABLE 1 – QAC’s Specific Submissions on Plan Change 49

Section	Proposed Objectives and Policies	Submission	Relief Sought
<p>22.1 Purpose Paragraph 5</p>	<p><i>The National Policy Statement Freshwater Quality (2011) sets out objectives and policies that direct local government to manage water in an integrated and sustainable way.</i></p>	<p>The introductory material incorrectly references the National Policy Statement for Freshwater Management. QAC submits that this needs to be updated to reflect the recently gazetted amendments to the policy statement.</p>	<p>Amend the introductory paragraph to read as follows:</p> <p><i>The National Policy Statement for Freshwater Management 2014 Quality (2011)-sets out objectives and policies that direct local government to manage water in an integrated and sustainable way.</i></p>
<p>22.2 Objectives and Policies</p>	<p>Objective 1 Earthworks and Environmental Effects <i>To enable earthworks that are a necessary part of subdivision, development, and access, provided that they are undertaken in a manner that avoids adverse effects on communities and the natural environment.</i></p>	<p>QAC opposes this policy in part.</p> <p>QAC submits that is inappropriate to place primacy on the avoidance of effects as outlined in Objective 1. To place primacy on the avoidance of effects fails to recognise circumstances where it may be feasible to avoid, remedy or mitigate the effects of earthworks, especially where significant regional or national benefits of enabling the activity (on balance) far outweigh the adverse effect.</p> <p>It is therefore important for the plan to recognise that a balance is sometimes necessary between achieving environmental outcomes and enabling people and the community to provide for their social and economic wellbeing. This is consistent with Part 2 of the RMA and would also support the inclusion of resource consent assessment matters which enable effects to be remedied or mitigated.</p>	<p>Amend the objective as follows:</p> <p>Earthworks and Environmental Effects <i>To enable earthworks that are a necessary part of subdivision, development, and access, provided that they are undertaken in a manner that avoids, <u>remedies or mitigates</u> the adverse effects on communities and the natural environment.</i></p>

Section	Proposed Objectives and Policies	Submission	Relief Sought
	<p>Policy 1.2 To use environmental protection measures to avoid adverse effects of earthworks, including:</p> <ul style="list-style-type: none"> • Sediment run-off erosion control techniques • Dust control measures to avoid nuisance effects of dust beyond the boundary of the site • Management of storm water and overland flows • Management of construction noise and vibration effects • Limits on the duration of construction taking into account the receiving environment • Traffic management and implementation of techniques to avoid the depositing of sediment onto roads, particularly where access is gained through residential areas. 	<p>QAC supports this policy in part.</p> <p>QAC submit that it is appropriate to promote the use of environmental protection measures to assist in the management of earthwork effects. To ensure consistency with the changes sought for Objective 1, and to ensure consistency with Part 2 of the RMA, QAC submits that this policy should recognise that remediation and/or mitigation are also appropriate measures for managing effects.</p> <p>In accordance with the definitions section of the plan, a site includes the airspace above the land. Due to the significant safety risk that dust plumes can potentially cause for aircraft on landing and approach, QAC submit that an additional measure should be included to capture dust plumes located within (albeit above) the site.</p>	<p>Amend the policy as follows:</p> <p>Policy</p> <p>1.2 To use environmental protection measures to avoid, <u>remedy or mitigate the</u> adverse effects of earthworks, including:</p> <ul style="list-style-type: none"> • Sediment run-off erosion control techniques • Dust control measures to avoid nuisance effects of dust; <ul style="list-style-type: none"> (i) <u>beyond the boundary of the site; and</u> (ii) <u>dust plumes above the site.</u> • Management of storm water and overland flows • Management of construction noise and vibration effects • Limits on the duration of construction taking into account the receiving environment • Traffic management and implementation of techniques to avoid the depositing of sediment onto roads, particularly where access is gained through residential areas.

Section	Proposed Objectives and Policies	Submission	Relief Sought
	<p>New Policy 1.6</p> <p><u>To recognise that earthworks associated with infrastructure can positively contribute to the social and economic wellbeing, and the health and safety of people and communities within the District.</u></p>	<p>QAC submits that a new policy is required to recognise those circumstances where the regional or national benefits of enabling earthworks associated with regionally significant infrastructure (on balance) far outweigh the adverse effects.</p> <p>Infrastructure providers (and supporting industries) will need to continue to meet the demands of the District's growing community (both in terms of residents and visitors). Due to topographical constraints and the scarce supply of developable land, limited options are available for many infrastructure providers to meet such demands.</p> <p>It is therefore important for the plan to recognise that a balance is sometimes necessary between achieving environmental outcomes and enabling people and the community to provide for their social and economic wellbeing.</p>	<p>Insert a new policy as follows:</p> <p><u>To recognise that earthworks associated with infrastructure can positively contribute to the social and economic wellbeing, and the health and safety of people and communities within the District.</u></p>
<p>22.3 Earthworks Rules</p>	<p>22.3.1 General Provisions / Cross Referencing</p> <p>ii Subdivision</p> <p>(a) <i>The rules in Section 22 do not apply to earthworks;</i></p> <p>(i) <i>That are approved as part of a subdivision, that has resource consent pursuant to Rule 15.2.20, or,</i></p>	<p>QAC submits that Rule 15.2.20 does not exist in the plan. This matter requires clarification in order to evaluate the potential impact of this rule.</p>	<p>QAC seeks that the reference be amended and the opportunity provided to reconsider this rule.</p>

Section	Proposed Objectives and Policies	Submission	Relief Sought
	<p>22.3.2.2 Controlled Activities</p> <p>22.3.2.3 Restricted Discretionary Activities</p> <p>22.3.2.4 Discretionary Activities</p>	<p>QAC supports the cascading rule structure proposed in Section 22.3.2 and seeks that this structure be retained.</p> <p>QAC also supports the matters of control identified in relation to controlled and restricted discretionary activities, in particular the retention of Council's control/discretion to Environmental Protection Measures.</p>	<p>QAC seeks to retain the cascading rule structure as proposed.</p>
	<p>22.3.2.6 Non-notification of applications</p> <p>(a) <i>Any application for resource consent for the following matters shall not require the written consent of other persons and shall not be notified or limited-notified:</i></p> <p>(i) <i>Rule 22.3.3 i Volume of Earthworks in Tier 5 Zones (see Table 22.1), except where the site adjoins a Residential Zone, Open Space Zone or an Activity Area in a Special Zone for Residential or Open Space activities.</i></p> <p>(ii) <i>Rule 22.3.3 i Volume of Earthworks in the Remarkables Park Zone.</i></p> <p>(iii) <i>Ski Areas Subzones.</i></p> <p>(iv) <i>Earthworks – except for earthworks involving special circumstances such as blasting, presence of substantial groundwater (including but not limited to the Wanaka Basin Cardrona Gravel Aquifer as shown</i></p>	<p>QAC opposes these notification parameters in part.</p> <p>QAC submit that there may be circumstances where notification of the requiring authorities for Queenstown and Wanaka Airports may be necessary.</p> <p>Uncontrolled (or poorly managed) dust plumes and the use of heavy plant and equipment to undertake earthworks can potentially pose a significant safety risk to overhead aircraft. This is greatest on approach and take off when there is reduced separation between earthworks activities and overheard aircraft.</p> <p>QAC therefore submit that it would appropriate for developers to obtain the approval of QAC / advise QAC of earthworks occurring in the vicinity of these areas to ensure that appropriate earthwork management regimes are in place.</p>	<p>QAC seeks that it be notified and/or its written approval sought for all earthwork related applications in the vicinity of Queenstown and Wanaka OLS designations.</p>

Section	Proposed Objectives and Policies	Submission	Relief Sought									
	<p>in Appendix A4-Interpretative Diagrams, Diagram 11) or earthworks located within any required building setback from an internal or road boundary. (Refer to 7.5.4 (iv)).</p> <p>(b) Any application for resource consent in respect of Rule 22.3.3(viii) Frankton-Cromwell Electricity Transmission Lines shall obtain the written approval of the tower owner.</p>											
22.3.3 Site Standards	<p>22.3.3 Site Standards</p> <p>i Volume of Earthworks</p> <p>(a) The maximum total volume of earthworks (m³) shall not exceed that specified in Table 22.1.</p> <p>Table 22.1</p> <table border="1" data-bbox="268 1211 635 1480"> <thead> <tr> <th data-bbox="268 1211 336 1301">Tier</th> <th data-bbox="336 1211 520 1301">Zones</th> <th data-bbox="520 1211 635 1301">Maximum Total Volume</th> </tr> </thead> <tbody> <tr> <td data-bbox="268 1301 336 1346">...</td> <td data-bbox="336 1301 520 1346"></td> <td data-bbox="520 1301 635 1346"></td> </tr> <tr> <td data-bbox="268 1346 336 1480">Tier 7</td> <td data-bbox="336 1346 520 1480">Any zone or Special Zone Activity Area not listed above in Tier 1 to 6</td> <td data-bbox="520 1346 635 1480">100m³</td> </tr> </tbody> </table>	Tier	Zones	Maximum Total Volume	...			Tier 7	Any zone or Special Zone Activity Area not listed above in Tier 1 to 6	100m ³	<p>QAC opposes this rule.</p> <p>QAC is concerned that the Proposed Plan Change seeks to introduce a threshold for earthworks which will introduce a requirement for resource consent for earthworks within the Mixed Use Airport Zone where the effects of such an activity are less than minor.</p> <p>In accordance with proposed Table 22.1, the default Tier 7 standard will apply to earthworks in the Mixed Use Airport Zone. This applies a limit of 100m³, which is considered particularly restrictive. Any development of the land within the Mixed Use Zone is likely to trigger this requirement for consent. QAC notes that the Mixed Use Zone provides for land use activities of a nature and scale akin to industrial and business activities. QAC therefore submits that it</p>	<p>QAC seeks that the Mixed Use Airport Zone be identified as a Tier 5 activity for earthworks within this zone.</p>
Tier	Zones	Maximum Total Volume										
...												
Tier 7	Any zone or Special Zone Activity Area not listed above in Tier 1 to 6	100m ³										

Section	Proposed Objectives and Policies	Submission	Relief Sought
		would be more appropriate for the permitted earthworks quantities within this zone to be amended to be consistent with the proposed Tier 5 limits.	
	<p>22.3.3 Site Standards</p> <p>iv Environmental Protection Measures</p> <p>(a) Any person carrying out earthworks shall implement sediment and erosion control measures to avoid sediment effects beyond the boundary of the site.</p> <p>(b) Any person carrying out earthworks shall implement appropriate dust control measures to avoid nuisance effects of dust beyond the boundary of the site.</p> <p>(c) Where 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.</p>	<p>QAC support this site standard.</p> <p>QAC submit that it is appropriate to promote the use of environmental protection measures to assist in the management of earthwork effects.</p> <p>QAC note however, that a 'site' includes the airspace above the land. Due to the significant safety risk that dust plumes can potentially cause for aircraft on landing and approach, QAC submit that an additional measures should be included to capture dust plumes located within (albeit above) the site.</p>	<p>That Site Standard 22.3.3 be retained with a minor amendment to 22.3.3 (iv)(b) as follows:</p> <p>22.3.3 Site Standards</p> <p>iv Environmental Protection Measures</p> <p>(a) Any person carrying out earthworks shall implement sediment and erosion control measures to avoid sediment effects beyond the boundary of the site.</p> <p>(b) Any person carrying out earthworks shall implement appropriate dust control measures to avoid nuisance effects of dust beyond the boundary and above the site.</p> <p>(c) Where 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.</p>

Section	Proposed Objectives and Policies	Submission	Relief Sought
22.4 Resource Consents – Assessment Matters	<p>i Nature and Scale of Earthworks</p> <p>(a) <i>Whether the earthworks are a necessary part of subdivision, development or access construction and the extent to which the subdivision engineering works, building or finished project will remedy the effects of the earthworks.</i></p> <p>(b)</p>	<p>In accordance with QAC's earlier submission points, QAC submits that additional assessment matters are necessary to ensure that appropriate recognition is afforded to the social and economic benefits of earthworks when assessing resource consent applications.</p>	<p>QAC seeks that additional assessment matters be included either under subheading 22.4(i) in regards to the nature of earthworks, or a new category of assessment matters be established that recognises and provides for those circumstances where there are significant social and/or economic benefits in providing for earthwork activities.</p>
	<p>ii Environmental Protection Measures</p> <p>(a) <i>Whether and to what extent proposed sediment and erosion control techniques are adequate to ensure sediment remains on-site.</i></p> <p>(b) <i>Whether appropriate measures to control dust emissions are proposed.</i></p>	<p>QAC submit that it is appropriate to promote the use of environmental protection measures to assist in the management of earthwork effects.</p> <p>QAC support this resource consent assessment matter.</p>	<p>Retain as drafted.</p>

Section	Proposed Objectives and Policies	Submission	Relief Sought
	<p>vii Bulk Earthworks</p> <p><i>(e) Whether a comprehensive site management plan has been supplied and the adequacy of sediment and erosion control, dust control, vibration and noise, traffic, hours of operation, health and safety and any other measures employed to reduce the impact on residential neighbours.</i></p>	<p>QAC partially support this resource consent assessment matter.</p> <p>QAC submit that it is appropriate to promote the use of comprehensive site management plans where bulk earthworks are proposed to be undertaken.</p> <p>QAC submit however, that the adverse effects of earthworks can extend beyond the immediate residential neighbours of a site. Uncontrolled or poorly managed dust plumes (and to a lesser extent, the use of heavy plant and equipment to undertake earthworks) can potentially pose a significant safety risk to overhead aircraft.</p> <p>QAC therefore submits that in the interests of aircraft and passenger safety, provision needs to be made for the consideration of other sensitive receivers.</p>	<p>Retain as drafted with a minor amendment to ensure that the measures outlined in 22.4 (vii)(e) are implemented to manage the effects of earthworks on other sensitive receivers such as overhead aircraft.</p>

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: **Queenstown Central Ltd**

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

1. Queenstown Central Ltd could not gain an advantage in trade competition through this submission.
2. Queenstown Central Ltd is an owner of significant amounts of land proposed to be zoned for urban purposes as part Plan Change 19. In developing its land, Queenstown Central Ltd will undertake earthworks and it anticipates requiring resource consents for earthworks.
3. Queenstown Central Ltd supports some aspects of PC49 but also has concerns with several matters arising from PC49 where improvements could be made:

Queenstown Central Ltd submits in general conditional support for:

- The streamlining of the controls and taking a more consistent approach across the district.
- Providing a robust framework in terms of objectives and policies associated with earthworks.
- The recognition that earthworks are required to facilitate development and that the provisions need to be enabling.
- Removing the area (m2) control and just having a volume (m3) control.

But also submits that the PC49 would benefit from the following improvements for which it seeks relief:

- (i) Objectives and policies should be amended to require adverse effects to be avoided or mitigated rather than just avoided;
- (ii) All Restricted Discretionary earthworks applications should be able to be dealt with on a non-notified basis without the need for written approvals;
- (iii) In respect of bulk earthworks: there is no need for these to be fully discretionary (or any other earthworks consent for that matter). Restricted Discretionary status

should be retained for this activity also and Council's discretion confined to a range of matters relevant to best practice management for earthworks;

(iv) In respect of bulk earthworks: there is no need for these to be fully discretionary (or any other earthworks consent for that matter). Restricted Discretionary status should be retained for this activity also and Council's discretion confined to a range of matters relevant to best practice management for earthworks;

(v) In respect of bulk earthworks: there is no need for these to be fully discretionary (or any other earthworks consent for that matter). Restricted Discretionary status should be retained for this activity also and Council's discretion confined to a range of matters relevant to best practice management for earthworks.

4. Queenstown Central 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.
5. Queenstown Central 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

49/48

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: Queenstown Trails Trust

Your Address:

Postal Address for Service: c/- Vivian Espie, Box 2514, Wakotipu 9349

Phone Number: (Work) (Home)

Fax Number: E-mail: carey@vivianespie.co.nz

Policy - Plan Change

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:

- 1. Objective 4, Policy 4.3. 2. Rule 22-3-2.1. 3. Objective 2 and policies. 4. Objective 3, Policy 3.3

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.

Signature - to be signed for or on behalf of submitter

Date 30 July 2014

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

My submission is:

1. Objective 2 and policies. The word "adverse" in the Objective should be replaced with the words "inappropriate" to better reflect section 6b of the RM Act. Policies 2.1 and 2.2 should be amended to include the words "and mitigate" after the word "avoid" to more accurately reflect the purpose of the RM Act.
2. Objective 3, Policy 3.3. This policy does not make sense. The words "*remedy or mitigate*" should be added after the word "*avoid*" and the words "including tracking" should be deleted.
3. Objective 4, Policy 4.3. We support this policy subject to the changes we have requested in Objective 2 above.
4. Rule 22.3.2.1. We support earthworks associated with the maintenance of public recreational tracks being included as permitted activity under (b). However we submit this does not go far enough to achieve policy 4.3. We submit that this permitted activity rule should be expanded to include the construction of all new public recreational trails on QLDC land, Crown land or on an easement registered over private land in favour of the QLDC, the Crown, QEII Trust or any of its entities.

I seek the following decision from the local authority:

As detailed above.

49/49

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: **RCL Queenstown (RCL).**

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

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

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

RCL

4. RCL Queenstown is a subsidiary of RCL Real Estate Pty Ltd, a company with significant experience in residential development. RCL controls land zoned for several hundred homes as well as commercial, visitor accommodation and associated facilities in the Jacks Point Zone, and intends to develop that land. This development would include works that would be considered earthworks under proposed PC49.
5. RCL has concerns with a number of the provisions proposed by PC49. These concerns are set out according to subject headings below:

Bulk Earthworks

6. The proposed Bulk Earthworks rules appear unjustified and it is not clear what resource management purpose it would achieve to introduce this concept into the District Plan. RCL has a particular concern with the proposal to make subdivisions involving more than 50,000 m³ of earthworks a discretionary activity. The proposed bulk earthworks provisions would create an unjustified level of uncertainty which could interfere with RCL's ability to carry out its business. The following relief is sought:

That provisions relating to bulk earthworks in both the proposed Earthworks section and Subdivision section be deleted.

Objectives and Policies

7. RCL 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. RCL does not believe there is an existing weakness in the objective and policy framework of the District

Plan which has enabled inappropriate adverse effects from earthworks on landscape and visual amenity values. It also questions how well the proposed objectives and policies integrate with the overarching Sections of the Plan and specific zones such as the Jacks Point Zone.

8. RCL considers that the provisions proposed by PC45 inadequately consider the distinctions between areas where urban development is anticipated (and by connection modifications as a result of earthworks) and those rural areas with very high landscape values at risk of degradation from inappropriate earthworks activities.

9. RCL 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 and zones identified for urban and residential development, primacy is not given to the protection of existing landforms at the expense of appropriate modifications associated with 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.

De-Watering

10. RCL has concerns about proposed Policy 3.2 which states

‘To ensure earthworks do not cause or exacerbate flooding and avoid de-watering.’

11. It is not always practical when carrying out construction and land development projects to avoid de-watering. At times this may prove the most appropriate means in which to address the issues a site faces.

12. RCL seeks the following relief:

That Policy 3.2 be amended to ensure that there is no presumption against de-watering but rather that potential adverse effects resulting from this practice are avoided, remedied or mitigated.

Rules

13. RCL 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.

14. RCL 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 restricted discretionary earthworks activities*
- *The widespread use of restricted discretionary or discretionary status for various earthworks consents, as opposed to controlled activity status.*

Issues with the Jacks Point Zone

15. RCL has land that would fall within categories

16. RCL has specific concerns with how the rules will apply to the Jacks Point Zone. It questions the justification for retaining some rules that currently exist under the existing District Plan for this zone. In particular, the proposed discretionary status of some earthworks in Jacks Point seems anomalous. And inadequate consideration of the fact that earthworks are considered as part of resource consents for individual buildings appears to have been provided. RCL seeks the following relief:

That rule 22.3.2.4 (c) (Discretionary Activity – Earthworks in the Jacks Point Zone) be deleted;

And

That the exemption in Rule 22.3.2.1 (iii) which permits earthworks otherwise approved via resource consents for buildings in the Remarkables Park Zone under 12.11.3.2(i) be extended to buildings approved under rule 12.2.3.2 (vii) in the Jacks Point Zone.

17. RCL 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. RCL 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

49/50

RESOURCE MANAGEMENT ACT 1991
SUBMISSION ON PUBLICLY NOTIFIED PLAN CHANGE 49

EARTHWORKS

TO: QUEENSTOWN LAKES DISTRICT COUNCIL

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

NAME: REMARKABLES PARK LIMITED

C/- Jenny Carter
Remarkables Park
PO Box 1075
QUEENSTOWN

Remarkables Park Limited (RPL) makes this submission on Plan Change 49: Earthworks (PC49)

1. The specific parts of the Plan Change that RPL's submission relates to are:

The Plan Change in its entirety.

2. RPL's submission is that:

RPL opposes the Plan Change on the following grounds:

(a) The Plan Change is contrary to Part 2 of the Act because:

- (i) it does not promote sustainable or integrated management;
- (ii) it does not manage the use, development and protection of natural and physical resources;
- (iii) it does not avoid, remedy or mitigate adverse effects;
- (iv) it does not accord with, or assist the territorial authority to carry out its functions to achieve, the purpose of the Act;
- (v) it does not meet section 32 of the Act;
- (vi) it 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;
- (vii) it does not implement the settled objectives and policies of the Remarkables Park Zone (RPZ);
- (viii) it does not represent sound resource management practice; and
- (ix) RPL was not adequately consulted.

Without derogating from the generality of the above, RPL further submits:

Submission point 1: Proposed changes to the provisions as they relate to the Remarkables Park Zone

RPL opposes any changes to earthworks provisions as they relate to the RPZ. It appears that the changes as they relate to the RPZ are in error, given the statements at page 47 of the Section 32 report, which read:

In the Operative Plan, these exemptions are contained within the Remarkables Park zone and were the result of the submission process on Variation 8.

These provisions have been efficient and effective and it is proposed that they be retained.

Because the existing provisions that sit within the RPZ are deleted and replaced with slightly amended provisions within the new Section 22 of the Plan, it is difficult to understand exactly what the changes are. It appears however that while there is an intention to retain the provisions as they currently exist this has not happened, and slight changes are proposed.

Firstly, it appears that an error has been made in that PC49 changes the provisions so that earthworks within the RPZ that are not associated with a controlled activity or an activity that has resource consent are a full discretionary activity. Currently under the operative plan those earthworks are restricted discretionary so that the non-notification provisions apply, and so that the Council's discretion is limited.

While the earthworks that exceed the volume requirements are included in the non-notification provisions, those that exceed the cut and fill are not. It is unclear why. It is also unclear as to why the rules would change from restricted discretionary to full discretionary.

Secondly, while earthworks associated with subdivision are a controlled activity, a new rule requiring discretionary consent for earthworks over 50 000m³ is introduced. It appears that this applies to the RPZ, which is opposed.

Thirdly, the assessment matters for earthworks are currently contained within the RPZ. It is proposed that these are deleted from the RPZ and changed significantly. Likewise, the policies for earthworks are changed, and it appears that these also will apply to the RPZ.

It is submitted that the earthworks provisions as they relate to RPZ should be retained as currently provided. This includes the existing objectives and policies, rules and the assessment matters.

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, the earthworks provisions as they relate to the RPZ are not changed as a result of PC49. Retain existing provisions within the RPZ.

Submission Point 2- Objectives and policies:

The objective refers to 'avoidance' of adverse effects. Many adverse effects resulting from earthworks are temporary, and therefore it is important that the objective includes reference to mitigation and remediation.

This also applies to Policy 1.2, which refers to use of environmental protection measures to 'avoid' adverse effects. It is correct that some of those effects should be avoided, for instance, sediment run-off, but deposition of sediment onto roads is an effect that can be remedied. In addition,

mitigation can be used to reduce dust effects, and may be a more practical term to use than 'avoidance'.

It is unclear how policy 3.3, which is to avoid earthworks including tracking on steeply sloping sites and land prone to erosion and instability, and policies 4.1, 4.2 and 4.3, which promote earthworks which may be in those locations, but which are 'provided for' are related. Likewise, Objective 2 and policies 2.1 and 2.2 are to avoid adverse effects on earthworks on the ONL and on visually prominent slopes, whereas Objective 4 and associated policies which are specific to rural areas (which are primarily ONL) are at odds with that objective, given that they are to 'provide for' earthworks for certain purposes. Consideration needs to be given to how these objectives and policies interrelate.

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, the policy provisions as they relate to RPZ are not altered.

That consideration is needed as to how the proposed objectives and policies relate to one another.

Submission point 3: Subdivision

Currently, if a subdivision includes earthworks, those earthworks are at worst a restricted discretionary activity (there has been some confusion about this). This means that they are unlikely to be notified. The plan change proposes to make it clear that earthworks associated with any subdivision is controlled. This is supported. However, a new rule has been introduced requiring discretionary consent for any bulk earthworks. Bulk earthworks are defined as those requiring 50 000m³.

The Section 32 report identifies that this provision is included to avoid the likes of Five Mile and Kawarau Falls Station occurring. However, it is unclear as to the effectiveness of this approach. Is it true that had those earthworks been full discretionary (as opposed to restricted discretionary as was the case at that time) they would have been declined? It is questioned as to why these earthworks need to be a full discretionary activity; more restrictive than what is currently the case. It is true that in retrospect there has been significant effect caused by those earthworks. However, if those projects had have been completed, those effects would have been remedied.

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, the earthworks provisions as they relate to subdivision within the RPZ remain unchanged.

That further consideration is given to the effectiveness of the new discretionary rule for bulk earthworks.

Submission point 4- Definition of earthworks

Currently, the definition of earthworks excludes removal of soil for the purposes of planting trees. This has changed such that it is only the planting of indigenous vegetation that is excluded from earthworks. It is questioned why this has occurred; has there been irreversible environmental

effects resulting from tree planting? Is there a different effect resulting from the earthworks required for planting exotic trees as opposed to indigenous vegetation?

The Section 32 report states at page 42 that

The definition in the Operative Plan has been generally effective and efficient. The modifications propose are minor in terms of cost, when read in conjunction with the new provisions in Section 22.

The issues section of the Section 32 report does not identify any issues with exempting tree planting from the earthworks requirements. It is therefore questioned why this change is promoted.

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, the earthworks provisions as they relate to the RPZ remain unchanged. This includes the definition of earthworks.

That the definition of earthwork is not changed as it relates to the exemption of the planting of trees.

Submission point 5- 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) and twelve policies. Even though the Council has stated that a key aim of the District Plan review (which this plan change is a part) is to streamline the District Plan and reduce its complexity, the proposed provisions add a number of policies; there are seven objectives proposed with 27 policies. 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 the RPZ are within the RPZ. This is changed so that a separate chapter of the Plan now has to be referred to when considering what earthworks controls apply.

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.

Making the requirements for earthworks stricter within the RPZ 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.

Given that the District Plan is used on-line now, and this will become more and more common, it is questioned why the earthworks provisions are removed from each section. This does not create complexity, but makes it easier to understand what can and cannot be done in each zone.

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, the earthworks provisions for RPZ within the RPZ are not altered.

Amend the provisions to reduce the number and complexity of objectives and policies. Remove repetition, and remove those policy provisions that are not necessary.

Submission point 6- Consultation

The Section 32 report identifies at page 13 that consultation has been undertaken via drop in sessions, workshops and a brochure. However, while further discussion is provided regarding consultation with iwi, historic places trust and oil companies, as a significant developer within the District RPL has not been consulted on the proposed changes as they relate to the RPZ.

It is submitted that there has been inadequate consultation. The Section 32 report refers to workshops, but it is unclear as to when these were held and who was invited.

Relief sought:

That the Council recognises that the consultation undertaken for PC49 is inadequate. The proposal to change the earthworks provisions as they relate to the RPZ is opposed, and the changes proposed, with the consequent need for RPL to submit, could have been avoided had consultation been undertaken prior to notifying PC49 in its current form.

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

Submission point 7- Trails

The Section 32 report states that the maintenance of trails is exempt from the definition of earthworks, and that trails are provided for via Objective 4. However, PC49 is placing greater restriction on the development of recreational trails than what is currently the case.

It is only maintenance that is less than a 10% increase in the area of exposed soil that is exempt from the earthworks definition. Given the slopes on which the recreational trails are located, it is likely that maintenance will require more than 10% increase in exposed soil. As an example, the trail running alongside the Kawarau River adjacent to the RPZ and also below the Shotover River confluence has slips that require maintenance. It is not efficient or effective to require resource consent each time these trails are maintained. Further, as identified above, it is unclear as to how Objectives 2 and 4 are to be balanced.

Many trails are located in the ONL. Contrary to the introductory statements of the public notice and the Section 32 report, the provisions as they relate to earthworks in the ONL are being made more stringent. These more stringent provisions apply to trails, and this is opposed.

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, the rules for maintenance and creation of trails are more permissive, recognising the importance of trail development and maintenance for this District.

Remarkables Park Limited wishes to be heard in support of this submission.

REMARKABLES PARK LIMITED

A handwritten signature in black ink, appearing to read 'Jenny Carter', is written over a horizontal line.

Jenny Carter
For Remarkables Park Limited
30 July 2014