



PROPOSED INVERCARGILL CITY DISTRICT PLAN

Decision No. 26

Soils, Minerals and Earthworks

Hearings Committee

Councillor Darren Ludlow (Chair)

Councillor Neil Boniface

Councillor Graham Sycamore

Keith Hovell

11 October 2016

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INTRODUCTION

We have been appointed by the Invercargill City Council to consider and issue decisions on the submissions lodged to the Proposed Invercargill City District Plan. In this Decision we consider the submissions lodged in relation to Soils, Minerals and Earthworks.

The Resource Management Act 1991 sets out various matters that impact on our considerations and deliberations. The key provisions are Sections 5 - 8, 32, 75 and 76 of the Act, and the Second Part of the First Schedule to the Act. The Section 42A Report prepared for the Committee considered these matters in detail and we have had regard to them. Where the statutory provisions are of particular significance we have referred to them within this Decision.

In this Decision, the following meanings apply:

"The Council" means the Invercargill City Council.

"FS" means Further Submission.

"Further Submitter" means a person or organisation supporting or opposing a submission to the Proposed Plan.

"Hearings Committee" or "the Committee" means the District Plan Hearings Committee established by the Council under the Local Government Act.

"HSNO" or "HSNO Act" means the Hazardous Substances and New Organisms Act 1996.

"HWRG" means H W Richardson Group Limited.

"IAL" means Invercargill Airport Limited.

"Operative Plan" or "Operative District Plan" means the Invercargill City District Plan 2005.

"Proposed Plan" or "Proposed District Plan" means the Proposed Invercargill City District Plan 2013.

"Provisions" collectively describes Objectives, Policies and Rules.

"RMA" means the Resource Management Act 1991.

"South Port" means South Port New Zealand Limited.

"Submitter" means a person or body lodging a submission to the Proposed Plan.

At the commencement of the hearings, Crs Boniface and Ludlow declared an interest as Directors of PowerNet Limited, Cr Sycamore declared an interest as a Director of Invercargill City Holdings Limited and Commissioner Hovell declared a conflict of interest in relation to submissions lodged by Cunningham Properties Limited. The Councillors and Commissioner took no part in deliberations in relation to the submissions of the submitters referred to.

THE HEARING

The hearing to consider the submissions lodged to the matters set out in this decision was held in the Council Chambers of the Invercargill City Council on 2 March 2015.

Section 42A Report

The Hearings Committee received a report from Joanna Shirley, Policy Planner at the Invercargill City Council. In her report Mrs Shirley advised that under Part 2 of the RMA the Council is required to take measures to safeguard the life-supporting capacity of soils. She highlighted that Southland's rural land, including Invercargill, is a highly valued natural resource that underpins the region's economy and the viability of the natural and physical environment. Maintaining or enhancing soil health and carefully using land resources across

the region is in her view essential to the community's health and economic, cultural, and environmental well-being.

Mrs Shirley noted that 45 submission points and 11 further submission points were received on the Soils, Minerals and Earthworks provisions of the Proposed District Plan. Of most concern to the submitters was the inclusion of a maximum limit for earthworks permitted to be undertaken in a 12 month period. Submitters opposed the need to obtain a resource consent if earthworks exceeded the limits, which they considered arbitrary and overly restrictive in any case. Invercargill Airport Limited further submitted in opposition to a number of these submissions, raising concern of bird strike resulting from standing bodies of water in close proximity to Invercargill Airport.

Mrs Shirley in her report recommended extensive changes to the rules in response to the submitters' concerns, including the exclusion of certain activities from the maximum earthworks limits, an increase in the volume of allowable earthworks, and a new rule referring to standing bodies of water.

The Committee also received an Addendum Report from Mrs Shirley, in which she advised the Committee that a situation arising following the preparation of the original Report justified a rethink from the staff's perspective of the approach to the bulk storage and supply of cleanfill material. The definition of "earthworks" in the Proposed Plan includes the disturbance of land surfaces by the depositing of material. As a result the stockpiling of material such as soil, sand, gravel and bark chips is subject to the zone's maximum quantities, limiting the bulk storage and supply of cleanfill material. Mrs Shirley stated this was not anticipated nor intended by the rule. Arising from this she recommended additions to Rule 3.17.

Persons Attending the Hearing

Federated Farmers

Ms Tanith Robb appeared on behalf of Federated Farmers of New Zealand, reading a statement prepared by David Cooper, Senior Policy Adviser, in which he supported the change recommended to Rule 3.17.2 which provided an exemption from the maximum quantity limits for farm cultivation. He also supported the permitted activity status for farm landfills and dead holes, noting that the Regional Plan rules dealt with these effectively.

However, while the recommended increase to the allowable limit associated with borrow pit activities was considered helpful, Mr Cooper advised that Federated Farmers members still considered the level of 1,000m³ too low, commenting that doubling this was appropriate as a permitted activity. He suggested in the alternative that between one and two thousand cubic metres be a controlled activity.

Invercargill Airport Limited

Kirsty O'Sullivan of Mitchell Partnerships appeared on behalf of IAL, together with Chloe Surridge, General Manager of IAL. Mrs O'Sullivan referred to the provisions of Plan Change 10 to the Operative District Plan which provided a rule requiring consent where earthworks created standing pools of water in the Airport Protection Sub-Area. This had not been carried over to the Proposed Plan, but was now recommended for inclusion in a modified form. She advised the Committee that the inclusion of such a rule was to avoid the creation of standing water bodies that could potentially attract additional birds in and around the airport, causing a serious safety risk for aircraft.

Mrs O'Sullivan did not agree that having birds already present within the bush areas of the Otatara Zone was a valid reason not to extend any controls to that area. She noted that bird

behaviour is unpredictable and it is likely that they will fly into the flight paths of aircraft. Mrs O'Sullivan also referred in general terms to international studies which had identified a 13km distance from runways as being the critical area within which such bird risk needs to be managed.

Mrs O'Sullivan also stated that in drafting the submission for IAL she appreciated the difficulty in providing certainty as to the area the rule should apply to, and for that reason included reference to both the Airport Protection Zone and the Otatara Zone. Having regard to the international studies she saw some logic in adopting a 13km limit, but noted this included land in other zones, and as a consequence was therefore likely to be beyond the scope of the submission lodged.

Mrs O'Sullivan referred to the recommended addition of an assessment matter to accompany the proposed rule. In her view that should be included as a general matter for assessment of all earthworks applications that breach any of the specified limits.

Material Tabled at the Hearing

South Port NZ Limited

Claire Hunter of Mitchell Partnerships Limited expressed concern on behalf of South Port that the rules applying to soil disturbance and earthworks, even with the recommended changes, were overly restrictive and would impact on the day to day operations of the company. South Port sought an exemption from all of the rules, not just those applying to storage of clean fill.

In response to comments in the Section 42A Report, Ms Hunter referred to recent activities at the port as part of ongoing terminal paving, and reconfiguring hard stand areas which occurs with short notice in order to secure cargoes through the port, noting that these activities would be viewed as part of normal port activities and in most cases as temporary. She also referred to Section 17 of the RMA that imposes a duty to avoid, remedy or mitigate the adverse effects of activities regardless of whether a consent is required; and to the Regional Coastal Plan being able to respond to any deposition into the harbour that occurs.

Ms Hunter also stated that it seems inconsistent that earthworks undertaken within the Smelter Zone are permitted while those in the Seaport Zone are not. Given the significance of the port to the regional economy and the social well-being of the community, she was of the view that there should be an exemption to the earthworks rule (Rule 3.17.2) which would be consistent with the Operative Plan.

H W Richardson Group Limited

Joanne Dowd of Mitchell Partnerships Limited advised on behalf of HWRG that changes recommended to Objective 2.13.2.3 and Policy 2.13.3.6 and its explanation met the concern of their associated submissions. She also advised of support for the recommended changes to thresholds for earthworks in the Rural zones, but questioned why these did not apply to the Industrial 1 and 1A Zones. In her view the permitted volume should be increased to 200 cubic metres in these zones.

Mrs Dowd advised that HWRG were concerned that the limitations placed on earthworks throughout the District would have significant implications for roading projects undertaken by South Roads and sought to ensure that material associated with such roading projects was provided for as a permitted activity. The amendments to Rule 3.17.2(e) are appropriate in her view, but she noted that HWRG remains concerned that the rule will still unnecessarily restrict the bulk storage of cleanfill material on Rural zoned land. Clause (H) of Rule 3.17.2 provides for the bulk storage and supply of cleanfill material ancillary to an industrial activity

in the Industrial 2, 3 and 4 Zones to be exempt from the earthworks rule. In her view, an exemption should also apply to the Industrial 1, 1A and Rural Zones.

Mrs Dowd also indicated support in part to the reporting officer's recommended changes to the "Cleanfill" definition. However, she recommended that an additional change be made, in line with HWRG's submission, to ensure the rule is practicable. She also asked for the inclusion of a definition of "Cleanfill Site" and adoption of a definition of "Landfill" that was consistent with the Regional Water Plan.

PowerNet Limited

Joanne Dowd of Mitchell Partnerships Limited advised on behalf of PowerNet that the recommendation in the Section 42A Report to exempt utilities from the earthworks rule is appropriate and supported. She also added that given that recommendation PowerNet was neutral on the status of activities that do not comply with the rule.

MATTERS REQUIRING PARTICULAR CONSIDERATION

Limitations on the Quantity of Earthworks

A number of the submitters raised concerns with regard to the introduction of maximum limits placed on earthwork activities requesting either an increase in the permitted volume or deletion of the rules altogether. Mrs Shirley in her Section 42A Report did not accept that the quantity limits should be completely deleted. She considered earthwork activities can create adverse effects on the environment such as dust, drainage, transportation and visual effects, and changes in soil profiles. She also considered that the maximum limits provide the Council with a mechanism to control these effects and to ensure that resources are managed sustainably.

Mrs Shirley accepted however that where earthworks are controlled through other processes, such as building consent, then there is no benefit in requiring any resource consent regardless of the scale of earthworks undertaken. She also agreed with the issue raised by Ballance Agri-Nutrients that site size should be taken into account when determining the volume of earthworks allowed, and recommended an increase in the allowable volume in the Rural Zones in response to a submission of Federated Farmers. At the hearing Federated Farmers and IAL spoke on this issue.

David Cooper from Federated Farmers advised that even the recommended increase to 1,000m³ was too low and 2,000m³ was more appropriate as a permitted activity. As a compromise however, he suggested that for volumes between 1,000m³ and 2,000m³ a controlled activity consent be required.

Kirsty O'Sullivan on behalf of IAL reiterated the request that a rule require consent where earthworks created standing pools of water in the Airport Protection Zone and the Otatarā Zone.

Written material submitted to the hearing from Claire Hunter on behalf of South Port opposed the rules applying to soil disturbance and earthworks at the Bluff port even with the recommended changes; stating they would impact on the day to day operations of the company. South Port sought an exemption from all of the earthworks rules, not just those applying to storage of clean fill, while noting that Section 17 of the RMA imposes a duty to avoid, remedy or mitigate the adverse effects of activities regardless of whether a consent is required. Ms Hunter also stated that given the significance of the port she was of the view that there should be an exemption to Rule 3.17.2.

Joanne Dowd of Mitchell Partnerships Limited advised on behalf of HWRG that the company was concerned that the limitations placed on earthworks throughout the District would have significant implications for roading projects undertaken by South Roads and sought to ensure that material associated with such roading projects was provided for as a permitted activity. She noted that HWRG remains concerned that the rules will still unnecessarily restrict the bulk storage of cleanfill material on Rural zoned land. Mrs Dowd also highlighted that the exemption applying to the Industrial 2, 3 and 4 Zones should also apply to the Industrial 1, 1A and Rural Zones.

Joanne Dowd advised on behalf of PowerNet that the recommendation in the Section 42A Report to exempt utilities from the earthworks rule is appropriate and supported.

In addition, the Committee noted the submission from Transpower seeking an exemption for earthworks that are of a temporary nature where reinstatement takes place, while Chorus and Spark requested removal of the limits. NZTA also sought an exemption for roading works.

In considering these submissions, the Committee had regard to the objectives and policies in the Proposed Plan which sought to maintain the productive capacity of the rural land resource, particularly where high value soils are present; and avoid, remedy or mitigate the adverse environmental effects of earthworks. The explanation of Policy 6 states "*the effects of land fill operations and significant alterations to the soil profile need to be addressed through controls*". Rule 3.17.5 requires applications to consider potential effects of dust or noise nuisance, traffic generation, effects on natural water flows and effects on future development options. Regard is also required to be given to sites of heritage significance, outstanding natural features and landscapes and significant indigenous biodiversity but the Committee noted these are subject to other specific rules in the Plan. The Committee also noted that a management plan is referred to as part of any application but it is not mandatory. If prepared, such a plan is required to consider visual or amenity impacts of fill such as changes in landform and shading. The Section 32 Assessment also highlighted that the Plan provisions were desirable for the maintenance or improvement of soil health and to create a more pleasant environment and higher amenity values.

Having regard to these matters the Committee is satisfied that as a general principle there is justification in the adoption of rules which require resource consent approval where earthworks exceed a threshold or fail to comply with any standards in the Plan. The Committee was mindful however to avoid duplication of procedures, and in that regard agreed with Mrs Shirley that no consent under this part of the Plan should be needed where earthworks were authorised as part of a building consent which was a permitted activity under the District Plan. The Committee gave particular regard to the following statement made by Mrs Shirley in her Section 42A Report:

Earthwork activities can create adverse effects on the environment such as dust, drainage, transportation and visual effects, and change in soil profile. The maximum limits provide the Council with a mechanism to control these effects and to ensure that resources are managed sustainably.

Taking into account the submissions lodged and the provisions of Section 17 of the RMA, the Committee concluded that in relation to earthworks the adverse effects referred to by Mrs Shirley would not be of significance within the Seaport and Industrial Zones. The sustainability of the soil resource and visual impacts from earthworks are not considered relevant in these zones, and the other effects referred to by Mrs Shirley can be managed, if required, by Section 17 of the RMA. As a consequence, it considered it unnecessary to provide limits for earthworks in those zones.

The Committee recognised the importance of providing for the sustainability of the productive capacity of the rural land resource, particularly where high value soils are present. It therefore considered that a two tier approach could be justified within the rural areas of the District, with the limits applying to areas containing high value soils (which are shown on the District Planning Maps) being at a lower level than other rural areas. Arising from volumes referred to in the Proposed Plan, the submissions lodged and the Reports and evidence received by the Committee, it concluded that the maximum volume for earthworks in the Rural Zone of 2,000m³ was an appropriate limit, except within areas of high value soils.

The Committee accepted the general premise put forward by IAL that as a consequence of earthworks being undertaken, it is undesirable to create standing bodies of water that could be used as habitat by birds in a way that created a potential hazard to aircraft approaching and leaving Invercargill Airport. The Committee debated the areas to which any control should apply and noted that the submission from IAL sought a control only within the Airport Protection and Otatara Zones. It accepted that bird movements outside of the 46 amsl obstacle limitation surface recommended by Mrs Shirley had the potential to create a nuisance, and while there are plentiful bird populations already within the Otatara Zone the creation of standing bodies of water would likely attract different bird species to those already present. The Committee therefore concluded that a control should apply to all of the Airport Protection Zone and Otatara Zone. The Committee also noted that standing bodies of water can occur following establishment of borrow pits and farm landfills. As a consequence, it considered that conditions were required as part of any permitted rule for these activities.

While the Committee was accepting of the recommendation in the Section 42A Report that an exemption should apply to earthworks associated with infrastructure, including roading, it had concerns relating to the practice of depositing large volumes of fill on land near to large scale works such as some roading works, for example road realignments or construction of passing lanes. It considered that surplus cleanfill should be subject to the same controls as earthworks on the recipient land. That has been provided for by amending the definition of "earthworks".

SECTION 32 MATTERS

Requirements

The Committee was advised by Mrs Shirley that Section 32 of the RMA establishes the framework for assessing objectives, policies and rules proposed in a Plan, and that a Report was released at the time of notification of the Proposed Plan in compliance with those provisions. The Committee was also advised that Section 32AA of the RMA requires a further evaluation to be released with decisions outlining the costs and benefits of any amendments made after the Proposed Plan was notified, with the detail of the assessment corresponding to the scale and significance of the environmental, economic, social, and cultural effects that are anticipated from the implementation of the changes made to the Proposed Plan.

As the Committee understands its obligations, it is required to:

- (i) Assess any changes made to objectives to determine whether they are the most appropriate way to achieve the purpose of the RMA.
- (ii) Examine any changes made to the policies and rules to determine whether they are the most appropriate way to achieve the objectives of the Proposed Plan. This includes:
 - Identifying the costs of the environmental, economic, social, and cultural effects

that are anticipated from the implementation of the provisions (including effects on employment and economic growth)

- Identifying other reasonably practicable options for achieving the objectives; and
- Assessing the efficiency and effectiveness of the provisions in achieving the objectives.

The Committee however, is not required to assess in accordance with Section 32 of the RMA any changes to the issues and/or explanatory text of provisions.

Assessment

Mrs Shirley in her Section 42A Report undertook a further evaluation of the changes recommended in her Report, advising that many of these were within the scope of the original assessment undertaken or appropriate having regard to the Section 32 criteria. The Committee agrees with that assessment and adopts it.

This decision also makes extensive changes to Rule 3.17, that differ from Mrs Shirley's recommendations. Where this is the case further assessment under Section 32 is required. These amendments are as follows:

- Exempting the Smelter Zone, Seaport 1 and 2 Zones and the Industrial 1, 2, 3 and 4 Zones from the rules.
- Exempting the deposition of material for the purpose of forming hard surfaces from the rules.
- Including a new permitted activity rule for the construction and operation of dead holes and farm landfills.
- Amending the limit for the quantity of earthworks undertaken in a 12 month period within the Rural Zone to 2000m³.
- New Rules 3.17.3 – 3.17.5.
- Subsequent amendments to the wording and layout of the rules as a consequence of these changes.

Section 32AA Further Evaluation

The scale and detail of this Section 32AA assessment are reflective of the amendment being assessed.

Rule Exemptions

This decision exempts the Seaport and Industrial Zones from the Soils, Earthworks and Minerals Rules. In making this decision the Committee concluded that the adverse effects, in relation to earthworks, would not be of significance within these Zones. This change will have a positive effect on the economic and social well-being of the community, recognising the importance that activities undertaken within the Seaport and Industrial Zones have on the regional economy and the community. It is considered that any adverse environmental effects arising from earthwork activities will be minor, and in the event that adverse effects do occur Section 17 of the RMA will be relied upon.

The deposition of material for the purpose of forming hard surfaces will also be exempt from the rules. The Proposed District Plan, as notified, restricted this activity to quantity limits. The Committee considers that the adverse effects of this activity will be minor and to impose quantity limits would be onerous. This will allow for small scale development to occur without creating unnecessary regulatory delays and costs.

New Rules 3.17.3 – 3.17.5

A new rule (Rule 3.17.3) has been added which sets out conditions that apply to the permitted activities listed in Rule 3.17.2. Condition (A) relates to the Rural Zone and limits the quantity of material deposited onto land containing high value soils. Condition (B) applies to earthworks within the Airport Protection and Otatara Zones, and states that no standing bodies of water greater than 10m² in area shall be created. Activities that do not comply with Rule 3.17.3 have been given an activity status of restricted discretionary. The matters over which the Council exercises its discretion are set out in Rules 3.17.4 and 3.17.5.

The inclusion of condition (A) will help to ensure that the District's high value soils are maintained and protected for future generations. This is particularly important because high value soils comprise only a small proportion of the District's soil resource. Although this rule may restrict land owners from undertaking certain activities on their properties, it is considered that the wider social and economic benefits outweigh these limitations.

Condition (B) applies to the whole of the Otatara and Airport Protection Zones. It will restrict earthworks within these areas and therefore could limit activities that can be undertaken as of right within these areas. This may negatively impact landowners by creating additional regulatory costs and restrictions. It is considered, however, that the risk associated with bird strike has the potential to result in greater economic and social implications for the Airport and the wider community, such as damage to aircraft, disruption of aircraft operations, injury and in an extreme case loss of life. This rule is considered to be the best way to achieve the objectives of the Plan, which include seeking to ensure that the movement of aircraft is able to be undertaken safely and efficiently.

New Permitted Activities

This decision permits the construction and operation of dead holes and farm landfills, subject to compliance with Rule 3.17.3. The Committee recognises that these activities are adequately managed by the Regional Council's Water Plan, and that the Council only needs to become involved when the activity triggers the conditions set out in Rule 3.17.3. This decision also increases the quantity of earthworks that can be carried out in the Rural Zone to 2,000m³. This is 1,800m³ more than the quantity notified in Proposed District Plan and 1,000m³ more than recommended by Mrs Shirley in her Section 42A Report.

These changes are considered reasonable to allow farmers to use their land efficiently. Given the rural environment and the greater capacity of the sites to absorb adverse effects, due largely to their size, it is considered that any adverse effects will be minor. The agricultural industry is a large contributor to the regional economy and these amendments will help to ensure farmers can continue operating from their land without onerous controls.

Minor amendments

As a consequence of these changes subsequent amendments to the wording and layout of the rules have occurred, including new assessment matters. These amendments are considered to be of a minor scale and significance, and therefore it is not necessary or practical to quantify the economic, social, cultural, environmental and employment effects of these changes.

Overall, it is considered that the amendments, outlined above, are the most appropriate way to achieve the Objectives of the Proposed Plan.

Dated at Invercargill this 11th day of October 2016



Councillor Darren Ludlow (Chair)



Councillor Neil Boniface



Councillor Graham Sycamore



Keith Hovell

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APPENDIX 1 - Decisions by Submission

SUBMISSION	DECISION
GENERAL	
<p>24.34 South Port NZ Ltd The submitter agrees that there should be a focus on the protection of quality soils within the Invercargill District, but considers that this same level of protection should not be afforded to areas of land where the soil has been highly modified such as reclaimed areas of land such as the Port land. This chapter should recognise that it only applies to areas of high quality soil.</p> <p><u>Decision Sought:</u> Ensure that this chapter and ensuing objectives, policies and rules do not apply to areas where soil has been highly modified such as reclaimed areas of land such as the Seaport Zone.</p>	<p>Decision 26/1 This submission is accepted by adopting Decision 26/23.</p> <p>Reason The operational nature and requirements of the seaport, together with the ability to store large volumes of products, give rise to similar effects arising from the undertaking of earthworks and any storage of cleanfill. Section 17 of the RMA provides appropriate means to consider any adverse effects arising from these activities.</p>
<p>56.21 Jenny Campbell The submitter broadly discusses the issues of solid waste disposal and the need to keep as many resources out of the landfill as possible. The submitter suggests various methods that could be introduced to increase public awareness and reduce the amount of waste being diverted to landfill.</p>	<p>Decision 26/2 This submission is noted.</p> <p>Amendments to District Plan None required.</p> <p>Reason The points raised are largely outside of the scope of the Soils, Minerals and Earthwork provisions of the District Plan.</p>
<p>64.34 Department of Conservation The submitter considers these provisions are consistent with Part 2 of the RMA. The submitter also supports the requirement to consider the rules covering biodiversity, heritage and natural features and landscapes.</p> <p><u>Decision Sought:</u> Retain the objectives, policies, methods and rules.</p> <p>FS32.4 Placer Investments Ltd opposes Submission 64.34 commenting that the mineral extraction provisions should remain as in the Operative District Plan and that the submission is not in accordance with Part 2 of the RMA. Replace proposed provisions on Mineral Extraction with those in the Operative District Plan.</p>	<p>Decision 26/3 This submission is noted.</p> <p>Amendments to District Plan None required.</p> <p>Reasons</p> <ol style="list-style-type: none"> 1. The submitter supports the plan provisions and seeks no change to them. However, it is noted that some provisions have been altered by the decision in response to the submissions. 2. The matters raised by the further submitter go beyond the scope of the original submission and no action can be taken with regard to the changes sought to the Plan.

APPENDIX 1 - Decisions by Submission

SUBMISSION	DECISION
<p>77.37 Te Runaka o Waihopai and Te Runaka of Awarua The submitter notes that there is no reference to the impact of earthworks on potential unknown or known Iwi sites.</p> <p><u>Decision Sought:</u> Add: <u>Earthworks can affect heritage including archaeological sites and sites of cultural importance to Iwi.</u></p>	<p>Decision 26/4 This submission is accepted.</p> <p>Amendments to District Plan Amend Rule 3.17.5 (renumbered as 3.17.8(A)(f)) as follows:</p> <p>(F) Any effect on sites of:</p> <ul style="list-style-type: none"> (i) <u>heritage and/or archaeological significance, and cultural importance to Iwi listed in Appendix II;</u> (ii) <u>outstanding natural features and landscapes and/or significant indigenous biodiversity shown on the District Planning Maps.</u> <p>Reasons</p> <ol style="list-style-type: none"> 1. As recognised in Policy 5, the effect of earthworks on archaeological sites and sites of cultural importance is an issue which should be considered at the time of resource consent. 2. Known sites of significance are listed in Appendix II and reference to that is appropriate. Consequently, reference should also be made to the District Planning Maps with regard to other features.
<p>105.3 ICC – Environmental Health and Compliance Services The submitter acknowledges the history of problems with on-site wastewater management systems in the district and supports references made to these systems in the issues, objectives and policies. The submitter believes that there should be more methods and zone specific rules relating to these systems within the Plan.</p> <p><u>Decision Sought:</u> Amend 2.13 to include:</p> <ol style="list-style-type: none"> a. A method of implementation that the Council will work with ES to assess, collect information and look at options to remedy issues. b. A method of implementation to carry out area surveys to assess the extent of any problems and to work out the best options to mitigate issues. c. Zone specific rules for on-site wastewater disposal systems which includes criterion such as approved design, operation and maintenance. 	<p>Decision 26/5 This submission is accepted in part.</p> <p>Amendments to District Plan</p> <ol style="list-style-type: none"> (i) Amend Method 6 as follows: Method 6 - Consult <u>and collaborate</u> with landowners and occupiers, Iwi, other councils, Central Government and other organisations, internal Council departments and local community and business groups. (ii) Add the following to Rule 3.38.11 (l) the ability to provide for on-site sewage treatment and disposal on the site. <p>Reasons</p> <ol style="list-style-type: none"> 1. Collaboration with Environment Southland on issues relating to soils, minerals and earthworks is valuable. 2. The Council monitors the effectiveness of wastewater disposal

APPENDIX 1 - Decisions by Submission

SUBMISSION	DECISION
	<p>systems through other legislation and it is therefore not necessary to include this as a method in the District Plan.</p> <p>3. Building consent is required for on-site domestic wastewater systems. As part of this process the building consent officers ensure compliance with “AS/NZS 1547:2012 – On-site domestic wastewater management”. This process is sufficient to ensure that on-site wastewater systems are appropriately designed, sited, operated and maintained.</p>
<p>117.14 Southern District Health Board The submitter supports the objectives and policies but would like to see additional wording to ensure assessments and characterisation of risks to both the environment and public health are considered. <u>Decision Sought:</u> Support with amendments:</p> <p>a. Including the term “public health effects” into Objectives 2 and 3 and Policy 4.</p> <p>b. Including reference to “appropriate maintenance” in Policy 5 Onsite Waste Water Disposal.</p>	<p>Decision 26/6 This submission is accepted in part.</p> <p>Amendments to District Plan</p> <p>(i) Amend Policy 5 to read: To require that on-site wastewater disposal systems are designed for the specific conditions of the subject site <u>and to encourage the ongoing maintenance of these systems.</u></p> <p>(ii) Include a new method as follows: <u>Method 10</u> Initiate environmental advocacy for the ongoing maintenance and care of on-site wastewater disposal systems.</p> <p>Reasons</p> <p>1. The RMA requires consideration of effects on the environment, and that is defined to include people and communities. Issues of public health are included as part of that, and as a consequence inclusion of reference to "public health" is not required.</p> <p>2. Poorly maintained effluent disposal systems can result in loss of soil quality and adversely affect the environment and health of people. An amendment to Policy 5 and the inclusion of a new method will encourage ongoing maintenance of these systems.</p>
<p>65.128 ICC Environmental and Planning Services The submitter notes that there may be areas of filled land that are not shown on the Hazard Maps. Review the data used to map the Filled Land on the Hazard Maps and amend maps where necessary.</p>	<p>Decision 26/7 This submission is accepted in part.</p> <p>Amendments to District Plan Remove the filled land data from the District Planning Maps.</p>

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SUBMISSION	DECISION
	<p>Reasons</p> <ol style="list-style-type: none"> 1. The District Planning Maps would be a snapshot of the land that, to the best knowledge of the Council, has been filled as at the date the Plan becomes Operative. The Council does not have full knowledge of all of the areas of fill within the District or the extent to which a site has been filled and it is misleading to include the data on the District Planning Maps. 2. Council's information on filled land will still be identified on the Council's GIS system and on the property files. This information will be passed on to the public via public enquiries, the building consent process, and LIM applications. This is provided for by Method 8 of the Soils Minerals and Earthworks provisions. The GIS system and the property files can more readily be updated when any fill occurs than the District Planning Maps.
<p>18.77 Environment Southland</p> <p>The Introduction, Policies 2 and 3 and Method 1 refer to “versatile soils” and the identification, delineation and protection of them. The submitter considers that Policies 2 and 3 are unclear when soils have a range of versatilities for a range of land uses. The submitter believes a more consistent approach would be to replace the term “versatile soils” with the term “high value soils”. This would align with the PSRPS 2012, particularly Policy RURAL 4 - Loss of high value soils from productive use.</p> <p>The submitter also believes that the explanation attached to Policy 3 of the District Plan “the District does not have high quality soils ...” is incorrect as the District has Class 2 soils (NZLRI) with a range of versatilities for different land uses.</p> <p><u>Decision Sought:</u> That Section 2.13 of the District Plan be amended by</p> <ol style="list-style-type: none"> 1. Replacing all reference in the Introduction, Policies 2 and 3 and Method 1 to “versatile soils” with “high value soils”. 2. Amending the Explanation to Policy 3 by removing the wording “the District does not have high quality soils”. 3. Making any other consequential amendments. 	<p>Decision 26/8</p> <p>This submission is accepted.</p> <p>Amendments to District Plan</p> <ol style="list-style-type: none"> (i) The term “versatile soils” is replaced with “high value soils” throughout the Proposed Plan. (ii) The following definition is added to Section Four of the Plan: <p>High Value Soils: <u>Soils identified as Class 2 arable horticulture in the PD McIntosh and J R F Barringer’s study Classification of Land for Horticulture, Forestry and Urban Use in Invercargill City. These soils are known to be highly productive and suitable for multiple uses such as growing a wide range of crops, pasture and forest and of high versatility for pastoral farming.</u></p> (iii) The explanation to Policy 3 is amended to read: <p><u>The district does not have high quality soils but there are areas of highly versatile soils, particularly to the north, that are an important resource that should be kept available for the production of food. — The District’s high value soils are an important resource that should be kept available for the production of food. Urban expansion typically reduces high value soil stocks either by reducing the total area or impairing the remaining soils. Such changes are effectively irreversible, because top soils can take thousands of years to develop.</u></p>

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	<p>Reason Consistency between plans provides a more user friendly document.</p>
SECTION 2.13 – ISSUES, OBJECTIVES AND POLICIES	
INTRODUCTION	
<p>18.76 Environment Southland The submitter suggests that a map identifying areas with poor draining soils is added to the Plan as supporting information for paragraph 7 of the Introduction. This will assist plan users when assessing a site for development which relies on on-site wastewater disposal systems.</p> <p><u>Decision Sought:</u> Add a map identifying areas with poor draining soils.</p> <p>FS34.9 ICC - Environmental Health and Compliance Services support Submission 18.76 by adding a map identifying poor drainage areas in the District Plan and also identifying areas with on-site wastewater disposal systems to assist users to assess a site for future developments in these areas.</p>	<p>Decision 26/9 This submission is rejected.</p> <p>Amendments to District Plan None required.</p> <p>Reasons</p> <ol style="list-style-type: none"> 1. The Council has limited information available on the drainage properties of local soils. It would be misleading to include incomplete information on the District Planning Maps. 2. It is not necessary to map areas with wastewater disposal systems as these are located within the rural areas of the District where reticulated services are not available. This information can also be found by reviewing the Council’s property files. These can be more readily updated than the District Planning Maps.
<p>65.32a ICC Environmental and Planning Services Support in part. The submitter considers that the background should acknowledge that failures of on-site effluent disposal systems also affect the health of the soil and its ability to support agricultural activities.</p> <p><u>Decision Sought:</u> Include “the health, life-supporting capacity and productive value of the soil”.</p>	<p>Decision 26/10 This submission is accepted.</p> <p>Amendments to District Plan Amend paragraph seven of the introduction as follows:</p> <p>Some rural areas within the District have a history of problems with on-site wastewater disposal. These areas generally include areas with poor draining soils and a higher density of residential activity than other rural areas. On-site wastewater disposal system failures can have adverse impacts on the amenity of these areas and the public health of residents, <u>and the health, life supporting capacity and productive value of the soil.</u></p> <p>Reason The addition makes the statement more encompassing.</p>

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2.13.1 ISSUES	
<p>58.1 Donald Moir The submitter disputes Issue 1 and considers that no evidence has been provided to support the claim that the economic well-being of the district is related to the productive capacity of its soils. The submitter notes that there are few areas of unsubdivided productive farm land close to the city, but acknowledges the presence of significant areas of open farm land between Invercargill and Bluff for which there is little or no demand for residential development. The submitter states that the boundaries of the district have been largely set to encompass the area that is more related to residential rather than agricultural land use. Remove Issue 1.</p> <p>FS4.32 Federated Farmers supports in part Submission 58.1 stating that soil type is only an indicator of the overall productivity of a farming operation. Another is the flexibility to make land use decisions in response to changing markets and input/output factors. The further submitter states that while some uses of land or changes to land use may be considered a negative effect, this should be balanced against the need to ensure that landowners have the ability to make land use decisions in response to the pressures of farming, and to make decisions that reflect constantly changing economic pressures.</p>	<p>Decision 26/11 This submission is rejected.</p> <p>Amendments to District Plan None required.</p> <p>Reason High value soils are capable of being used intensively to produce a wide variety of crops, including arable crops, which contribute to the overall productivity of land. The northern area of Invercargill contains high value soils, requiring protection to preserve their character and productive capability. As high value soils are limited and comprise such a small proportion of the District's soil resource it is important that these are maintained and protected for future generations. Various studies throughout New Zealand have demonstrated the importance of soil dependent industries on the economic wealth of the country, which rely on the productive capability of the land.</p>
2.13.2 OBJECTIVES	
<p>88.5 Federated Farmers Oppose Objective 1. The submitter believes that soil resource management is better addressed by those managing the land than through further regulatory protection. Amend the wording of the Objective as follows:</p> <p><u>Landowners are encouraged to manage Invercargill's soils are managed sustainably.</u></p>	<p>Decision 26/12 This submission is rejected.</p> <p>Amendments to District Plan None required.</p> <p>Reasons</p> <ol style="list-style-type: none"> 1. Both regulatory and non-regulatory methods are important to ensure that soils are managed sustainably. 2. The wording as notified is appropriate at an objective level. Policy 1, which supports this objective, promotes a non-regulatory approach that seeks to promote sustainable soil and land use development, and management practices. Rules also apply, providing a mix of methods of implementation.

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<p>77.38 Te Runaka o Waihopai and Te Runaka o Awarua Support Objectives 2 and 3 in part. The submitter considers that there is a need to consider public health effects. Add reference to “and public health effects”</p> <p>90.7 H W Richardson Group Ltd Support Objective 3 in part. The submitter considers it appropriate to enable potential adverse effects of earthworks to be avoided, remedied or mitigated. Retain Objective 3.</p>	<p>Decision 26/13 These submissions are noted.</p> <p>Amendments to District Plan None required.</p> <p>Reason 1. The submitters support the objective. 2. The RMA requires consideration of effects on the environment, and that is defined to include people and communities. Issues of public health are included as part of that, and as a consequence inclusion of reference to "public health" is not required.</p>
2.13.3 POLICIES	
<p>88.6 Federated Farmers Support Policy 1. The submitter believes the most efficient and effective role for Council is in the provision of information to landowners to meet the aims set out in this policy, and to promote the underlying values identified for the soil types within the District boundaries. Land owners can then make fully informed land use decisions based on the information provided and the economic and or environment pressures they are faced with. Adopt the policy as proposed.</p>	<p>Decision 26/14 This submission is noted.</p> <p>Amendments to District Plan None required.</p> <p>Reason The submitter supports the provision and seeks no change to it.</p>
<p>58.2 Donald Moir The submitter opposes Policy 3. They consider that the majority of those areas containing Versatile Soils is already heavily subdivided, and disagrees that there is a need to protect these soils for the production of food. Remove Policy 3.</p>	<p>Decision 26/15 This submission is rejected.</p> <p>Amendments to District Plan None required.</p> <p>Reason As noted in Decision 26/11, as high value soils are limited and comprise such a small proportion of the District’s soil resource it is important that these are maintained and protected for future generations.</p>

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<p>65.32b ICC Environmental and Planning Services Support Policy 3 subject to amendment of typo. Reword Policy 3 as follows: <u>To protect the district's versatile soils from the expansion of urban development</u></p>	<p>Decision 26/16 This submission is accepted in part</p> <p>Amendments to District Plan Amend Policy 3 as follows: To protect the District's <u>versatile high value</u> soils from the expansion of urban development over the district's versatile soils.</p> <p>Reason The change clarifies the policy and reference to "high value soils" provides consistency in wording.</p>
<p>88.7 Federated Farmers Oppose Policy 3 in part. The submitter considers that this proposed policy is unnecessary given a robust non-regulatory application of Policy 1 Soil. The submitter explains that while there should be an appropriate emphasis on considering the irreversible effects of losing high value soils from productive use and a need to protect areas important for primary production, this must be balanced against an individual's right to manage their own property decisions, and Council policies and planning should provide for managed growth in rural communities. <u>Decision Sought:</u> Delete the proposed policy.</p>	<p>Decision 26/17 This submission is rejected.</p> <p>Amendments to District Plan None required.</p> <p>Reasons As noted in Decision 26/11, as high value soils are limited and comprise such a small proportion of the District's soil resource it is important that these are maintained and protected for future generations.</p>
<p>90.8 H W Richardson Group Ltd Oppose Policy 4 in part. The submitter considers the explanation requires amendment to recognise that earthworks can be managed via a range of means or mitigation to address potential adverse effects arising from earthworks regardless of their scale and/or location. The submitter also considers the explanation should recognise that earthworks are necessary for appropriate land use and development that supports social and economic well being within the District. Amend the Explanation to Policy 4 Mineral Extraction as follows: Explanation: <u>The topography of the City often means that land modification, through earthworks, generally precedes the development of land.</u> Land-based mineral extraction (including gravel extraction) is an appropriate rural land use activity, so long as adverse environmental effects including cumulative effects are avoided, remedied or mitigated. The potential adverse effects of mineral extraction activity include, but are not limited to, effects on rural</p>	<p>Decision 26/18 This submission is accepted in part.</p> <p>Amendments to District Plan Amend the explanation to Policy 6 as follows: <u>Some modification of the landscape is inevitable in order to provide safe and stable building platforms and roads with a suitable gradient. Earthworks can therefore be necessary for land and economic development within the District. These activities can, however, give rise to adverse environmental effects and, therefore, the effects of land fill operations and significant alterations to the soil profile need to be addressed through controls in order to avoid adverse effects on the environment and public health.</u></p> <p>Reason Policy 4 is specific to mineral extraction activities rather than earthwork</p>

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<p>amenity, landscapes and natural features, biodiversity, water quality, soil resources and the roading network.</p> <p><u>Earthworks should therefore be managed through the implementation of a robust methodology and works supervision procedures to avoid adverse effects. Particular consideration should be given to the avoidance or mitigation of effects on water and soil quality and public health.</u></p>	<p>activities. The relief sought by the submitter is more appropriately located within the explanation to Policy 6, however, not all of the wording sought is considered necessary.</p>
<p>2.13.4 METHODS OF IMPLEMENTATION</p>	
<p>65.34 ICC Environmental and Planning Services</p> <p>The submitter considers that a method should be added to acknowledge that the Hazard Maps show some areas of filled land.</p> <p><u>Decision Sought:</u> Add method of implementation to acknowledge the presence of information of filled land on the District Hazard Maps.</p>	<p>Decision 26/19</p> <p>This submission is rejected.</p> <p>Amendments to District Plan</p> <p>None required.</p> <p>Reason</p> <p>Decision 26/7 removes areas of known fill from the District Hazard Information Maps and as a consequence no addition is required to the Methods.</p>
<p>2.14 SUBDIVISION – ISSUES, OBJECTIVES AND POLICIES - OBJECTIVE 3</p> <p>2.40 RURAL 1 ZONE – ISSUES, OBJECTIVES AND POLICIES - POLICY 4</p>	
<p>88.9 Federated Farmers</p> <p>Opposes Objective 3. The submitter believes that while there should be an appropriate emphasis on considering the irreversible effects of losing high value soils from productive use and a need to protect areas important for primary production, this must be balanced against an individual’s right to manage their own property decisions, and Council policies and planning should provide for managed growth in rural communities. Delete the proposed objective.</p> <p>88.46 Federated Farmers</p> <p>Opposes Policy 4 in part. The submitter explains that while there should be an appropriate emphasis on considering the irreversible effects of losing high value soils from productive use and a need to protect areas important for primary production, this must be balanced against an individual’s right to manage their own property decisions, and Council policies and planning should consolidate subdivision and future growth around existing settlements rather than restricting land use decisions in the rural area. Amend the wording of the policy as follows:</p> <p><u>To maintain the life supporting capacity and productive value of the soil resource, while providing for</u></p>	<p>Decision 26/20</p> <p>These submissions are rejected.</p> <p>Amendments to District Plan</p> <p>None required.</p> <p>Reasons</p> <ol style="list-style-type: none"> 1. As noted in Decision 26/11, as high value soils are limited and comprise such a small proportion of the District’s soil resource it is important that these are maintained and protected for future generations. 2. Owners have scope through the Plan provisions to utilise rural land in a flexible manner, but where there may be impacts on the sustainability of the soil resource it is appropriate to assess the effects through the resource consent process.

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development and legitimate land use in the Rural 1 Zone.	
SECTION 3.17 – RULES	
<p>24.65 South Port NZ Ltd Oppose Rule 3.17.1. The submitter considers that the Seaport Zone should be exempt from the rules which relate to soil disturbance and earthworks, as is currently the case in the Operative District Plan.</p> <p>The submitter considers that limitations with respect to the earthworks would severely limit the ability of the Port to undertake its existing and planned developments and provides an example of work that could not comply with the proposed limitation of earthworks of 1000m³.</p> <p>The submitter considers the limitations placed on the Seaport Zone are inappropriate, given that the effects of soil disturbance and earthworks activities are fully contained within the Seaport Zone.</p> <p>As noted in the submitter's comments on Section 2.13, there should be a focus on the protection of quality soil within the Invercargill District. It is deemed inappropriate to have the same protection on reclaimed land. Therefore 3.17.1 should not apply to the Seaport Zone. The submitter considers that it is not clear why the Smelter Zone is exempt, but that this does not extend into the Seaport Zone. Amend the earthworks rules (3.17) to exempt the rules from applying to the Seaport Activity.</p>	<p>Decision 26/21 This submission is accepted by adopting Decision 26/23.</p> <p>Reason As discussed on pages 4 - 5 of this Decision the circumstances justifying the adoption of rules in relation to earthworks are not applicable to the seaport.</p>
<p>13.16 Z Energy Ltd Oppose in part Rule 3.17.2. The submitter is concerned that the installation and removal of underground petroleum storage systems is controlled by and subject to the NES and that this rule will result in an extra layer of legislation.</p> <p>The submitter also suggests that the quantity of earth removed for these activities is not subject to additional restriction.</p> <p><u>Decision Sought:</u> Amend 3.17.2 by adding the following:</p> <p>(F) <u>the removal and/or replacement of underground petroleum storage tanks</u></p> <p>OR</p> <p>Amend the definition of earthworks by adding the following:</p> <p>...This does not include earthworks undertaken in association with the removal of</p>	<p>Decision 26/22 This submission is rejected.</p> <p>Amendments to District Plan None required.</p> <p>Reason The National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health (NES) has a very specific function of protecting human health from contaminants in the soil. It does not restrict the Council from imposing additional controls in their Plans on other matters they have control over. The soils, minerals and earthworks provisions serve a different purpose to the NES and therefore should apply to this activity.</p>

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<p>underground petroleum storage tanks.</p> <p>15.27 Ballance Agri-Nutrients Ltd Oppose in part Rule 3.17.2. The submitter acknowledges the need to manage effects associated with earthworks activities but consider that the 50 cubic metre annual limit on earthworks within the Industrial 2 Zone advanced by Rule 3.17.12(a) is unnecessarily restrictive and unjustified. The submitter considers that the rationale behind these limits and the differentiation between the volumes for the various zones is not readily apparent, and is particularly concerned by the 50 cubic metre limit proposed for the Industrial 2 Zone and the arbitrary nature of these limits generally.</p> <p>The submitter also considers the wording of the rules prescribing these limits is also ambiguous as they make no reference to being on a “per site” basis. Presuming that the limits are intended to be prescribed on a “per site” basis, the submitter considers that the volume of earthworks able to be carried out as a permitted activity should be based on sound information and be linked to site area in recognition that larger sites are likely to require larger volumes of earthworks and have greater capacity to absorb potential effects.</p> <p><u>Decision Sought:</u></p> <ol style="list-style-type: none"> i. Amend Rule 3.17.2 based on the area of the site, the underlying land uses permitted by the zone and that the volumes better reflect this. ii. Any similar amendments to like effect and any consequential amendments that stem from the amendment set out above. <p>FS11.7 HW Richardson Group Ltd supports in part submission 15.27 insofar as it seeks to amend the permitted volume of earthworks within the various zones proposed. The further submitter considers the proposed thresholds for earthworks are not effects based and restrictive when compared to other Districts and the earthworks quantities for the Industrial 1 and 2 Zones, and Rural 1 and 2 Zones should be revised upwards.</p> <p>90.25 H W Richardson Group Ltd The submitter considers the thresholds proposed by Rule 3.17.2 are arbitrary, not effects based and restrictive when compared to other District Plans. Amend Rule 3.17.2 to:</p> <ol style="list-style-type: none"> a. Amend (C) to include roads. 	<p>Decision 26/23 This submission is accepted.</p> <p>Amendments to District Plan</p> <ol style="list-style-type: none"> (i) Replace the Rules in Section 3.17 with those set out in Appendix 2 of this Decision. (ii) Add definition of “Site” to Section 4 of the Plan as follows: <u>Site: An area of land which is composed of one allotment in one Certificate of Title or two or more contiguous allotments held together in one or more Certificates of Title in such a way that the allotments cannot be dealt with separately without the prior consent of the Council.</u> <p>Reasons</p> <ol style="list-style-type: none"> 1. As discussed on pages 4 - 5 of this Decision the circumstances justifying the adoption of rules in relation to earthworks are not applicable to the Seaport or Industrial Zones. As a consequence, an exemption from the rules in Section 3.17 is appropriate for these zones. 2. As notified the rule was onerous with respect to certain activities and more flexibility is required by exempting certain earthwork activities from the maximum quantity limits and by increasing the limits to better reflect the activities of the zone and the size of the site. 3. Redrafting of the rules is required in response to issues raised by submitters, and to ensure that such rules are clear and capable of administration. 4. The rule applies on a “per site” basis and a definition is required to avoid confusion. 5. It is accepted that standing pools of water within the Airport Protection Zone and Otatara Zone can attract birds, thereby posing a risk to the safe movement of aircraft. Such a rule was included in the Operative Plan in the Airport Protection Sub-Area and it is agreed it should be included in the Proposed Plan.

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<p>b. Change the threshold for Industrial 1, 1A and 2 Zones from 50m³ to 200m³.</p> <p>c. Change the threshold for Rural 1 and 2 Zones from 200m³ to 1,000m³.</p> <p>AND/OR any similar amendments with like effect and any consequential amendments to the Proposed Plan that stem from the relief sought.</p> <p>87.51 Transpower NZ Ltd Support Rule 3.17.2 in part. The submitter considers the volume of earthworks permitted is insufficient and seeks a greater volume of earthworks for works associated with the National Grid. Amend Rule 3.17.2 as follows, together with any consequential amendments:</p> <p>(A) "Movement, deposition or removal of material when it is a necessary consequence of building a structure for which a building consent has been obtained on that site.</p> <p>.....</p> <p>(E) Activities associated with the construction, operation, maintenance, repair and upgrading of infrastructure.</p> <p>Provided that the quantity of earth moved shall not exceed:</p> <p>(a) 50m³ over 12 months in the Residential 1, 1A, 2 and 3, Business 1, 2, 3, 4 and 5, Industrial 1, 1A and 2, and Otatara Zones.</p> <p>(b) 200m³ over 12 months in the Rural 1 and Rural 2 Zones.</p> <p>(c) 1,000m³ over 12 months elsewhere.</p> <p>(d) <u>Or the earthworks are temporary in nature and the land is restored to pre-existing contours at the end of the work."</u></p> <p>FS5.30 Invercargill Airport Ltd opposes in part submission 87.51 on the grounds that it considers large quantities of material could be excavated within close proximity to the airport as a permitted activity. This could create areas of standing water that attract birds and subsequently become a safety hazard to flying aircraft. The further submitter is concerned that there is no definition of "temporary earthworks" in the proposed Plan, which potentially could result in large scale construction projects taking months to years to complete being considered "temporary".</p> <p>103.65 Invercargill Airport Ltd Oppose Rule 3.17.2. The submitter considers that limits on earthworks creating</p>	

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<p>standing pools of water around the airport should be set out in the Plan.</p> <p><u>Decision Sought:</u> Include a provision within 3.17.2 which limits the earthworks that will result in standing pools of water greater than 10m² in the Airport Protection and the Otatara Zones.</p>	
<p>18.99 Environment Southland The submitter seeks clarification on Rule 3.17.2 as to whether it would apply to the construction or enhancement of stopbanks. The submitter also notes that the proviso refers to “earth”, not any other kind of material, and furthermore, the proviso refers to the amount of material “moved”, not the amount of fill.</p> <p><u>Decision Sought:</u> Clarify the circumstances in which this rule would apply to the construction of stopbanks and if required, amend the rule so that it does not apply to their construction, repair or upgrading.</p> <p>102.16 Chorus NZ Ltd and 104.15 Telecom NZ Ltd Support Rule 3.17.2 in part. The submitter supports the exclusion from earthworks provisions for the construction, operation, maintenance, repair and upgrading of infrastructure. The submitter opposes the quantity limits as being unreasonably small. Retain 3.17.2, particularly 3.17.2(E) and delete the limitation on the rule.</p> <p>FS5.28 Invercargill Airport Ltd opposes in part Submissions 102.16 and 104.15. The further submitter considers that the removal of thresholds for limits on earthworks are appropriate in some situations. The further submitter is particularly concerned that earthworks can result in standing bodies of water in close proximity to the airport which can attract birds and become a safety hazard to flying aircraft. A permitted threshold of 10m² should be established for earthworks within the Airport Protection Zone and the Otatara Zone.</p> <p>52.11 NZ Police Support Rule 3.17.2 in part. The submitter opposes the quantity limits for earthworks associated with service trenches, or foundation works for masts and equipment buildings. Retain Rule 3.17.2, particularly (E) and delete the limitation on the rule in terms of the quantity of earthworks.</p> <p>FS5.28 Invercargill Airport Ltd opposes in part submission 52.11 and considers that the removal of thresholds for limits on earthworks are appropriate in some situations. The further submitter is particularly concerned that earthworks can result</p>	<p>Decision 26/24 These submissions are accepted by adopting Decision 26/23 and making the alteration set out below.</p> <p>Amendments to District Plan Adding the following to Rule 3.17.1:</p> <p style="padding-left: 40px;">(F) <u>The construction, maintenance and upgrading of utilities as provided for by Rule 3.9 Utilities.</u></p> <p>Reasons</p> <ol style="list-style-type: none"> 1. Utilities and cultivation are exempted from the maximum limits placed on earthwork activities by virtue of the rules in Section 3.9 of the Proposed Plan, but it is accepted that certainty is provided by the addition above. For clarity the definition of Utilities includes stopbanks. 2. Clarification of the intent of the rule is provided in Decision 26/23, together with minor errors in wording as highlighted by Environment Southland.

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<p>in standing bodies of water in close proximity to the airport which can attract birds and become a safety hazard to flying aircraft. A permitted threshold of 10m² should be established for earthworks within the Airport Protection Zone and the Otatara Zone.</p> <p>91.24 PowerNet Oppose Rule 3.17.2. The submitter opposes the introduction of limitations on the quantities of earthworks within the various zones on the basis that the limits are arbitrary, not effects based and comparably restrictive in terms of providing for the operation and maintenance of a reliable electricity distribution network. The submitter notes ambiguity between Rules 3.9.2 and 3.17.2 and as such the submitter would like the reference to “operation, maintenance, repair and upgrading” to be removed from rule 3.17.2 or a statement exempting earthworks associated with the construction of new Network Utility activities.</p> <p><u>Decision Sought:</u> EITHER Amend Rule 3.17.2 as follows:</p> <p>“...(E) Activities associated with the construction, operation, maintenance, repair and upgrading of infrastructure.</p> <p>Provided that the quantity of earth moved shall not exceed:</p> <p>(a) 50m³ over 12 months in the Residential 1, 1A, 2 and 3, Business 1, 2, 3, 4 and 5, Industrial 1, 1A and 2, and Otatara Zones.</p> <p>(b) 200m³ over 12 months in the Rural 1 and Rural 2 Zones.</p> <p>(c) 1,000m³ over 12 months elsewhere.”</p> <p>OR An exemption is provided for earthworks associated with Network Utility Operations. Such an exemption should include the following:</p> <p><u>Earthworks associated with the construction of new network utility activities are exempt from the earthworks thresholds in all zones.</u></p> <p>OR Any similar amendments with like effect and any consequential amendments to the Proposed Plan that stem from the relief sought.</p> <p>FS5.28 Invercargill Airport Ltd opposes in part submission 91.24 and considers that the removal of thresholds for limits on earthworks are appropriate in some situations. The further submitter is particularly concerned that earthworks can result in standing bodies of water in close proximity to the airport which can attract birds</p>	

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<p>and become a safety hazard to flying aircraft.</p> <p><u>Decision Sought:</u> A permitted threshold of 10m² should be established for earthworks within the Airport Protection Zone and the Otatara Zone.</p> <p>53.78 NZ Transport Agency The submitter is concerned that the introduction of quantity limits could have unintended consenting implications for contractors undertaking works on State Highways. The introduction of quantity limits Rule 3.17.2 (E) (a), (b) and (c) makes it likely that resource consent may be needed when upgrading and maintenance works are undertaken on State Highways. On occasion earthworks and filling activities may need to take place outside State Highway designations and these works would be subject to these Plan rules.</p> <p>The submitter notes that Infrastructure Rule 3.9.1 permits infrastructure, and Rule 3.9.2 permits the operation, maintenance, upgrading and replacement of existing infrastructure and states that is not required to comply with any other rules or standards in the Plan. The submitter suggests a cross reference or link to these rules from Rule 3.17.2 (E) may help with Plan interpretation.</p> <p><u>Decision Sought:</u> Introduce a link or cross reference at Rule 3.17.2(E) to Infrastructure Rules 3.9.1 and 3.9.2 and/or clarify that the Infrastructure rules of the Plan have precedence under the Soils, Minerals and Earthworks section of the Plan.</p> <p>FS5.29 Invercargill Airport Ltd opposes in part submission 53.78 and is particularly concerned that earthworks can result in standing bodies of water in close proximity to the airport which can attract birds and become a safety hazard to flying aircraft. A permitted threshold of 10m² should be established for earthworks within the Airport Protection Zone and the Otatara Zone.</p> <p>FS12.14 PowerNet Ltd supports submission 53.78 as there is currently ambiguity between Rules 3.9.2 and 3.17.2 and that this should be addressed particularly in relation to the “operation, maintenance, repair and upgrading of new network utility activities”.</p> <p>FS25.27 Transpower NZ Ltd supports in part submission 53.78 and considers that the Infrastructure section could be a “complete code” for infrastructure that overrides the zone rules, but not those relating to Biodiversity, Soils Minerals and Earthworks, or Natural Features, Landscapes and Townscapes, given the policy direction in</p>	

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<p>NPSET.</p> <p>58.6 Donald Moir The submitter considers that earthworks that can typically be expected to accompany works carried out under Bylaw 2013/1 Code of Practice for Land Development and Subdivision Infrastructure will routinely exceed the above limits.</p> <p><u>Decision Sought:</u> Amend 3.17.2 so that earthworks limits do not apply to works carried out under Bylaw 2013/1 Code of Practice for land Development and Subdivision Infrastructure.</p> <p>71.57 NZAS Ltd Support Rule 3.17.2 in part. The submitter suggests a minor amendment to clarify what exact provisions do not apply in the Smelter Zone. Amend 3.17.1 as follows: “Rules 3.17.2 – 13.17.6 do This rule does not apply in the Smelter Zone.”</p> <p>FS7.32 South Port New Zealand Ltd supports submission 71.57 and submits that this exemption should also apply to the Seaport Zone.</p>	
<p>88.87 Federated Farmers Oppose Rule 3.17.2 in part. The submitter explains that earthworks are a legitimate and essential part of the day to day operations of a farm, and it is expected that earthworks and ground disturbances will occur within the rural zone. The submitter considers that many on farm earthworks activities have little or no adverse impact on the environment and would prefer that it is the adverse effects that are managed through specific rules rather than these expected rural land uses.</p> <p>In particular the submitter considers that any recontouring of land related to fencing, farm landfills and dead holes should be permitted activities in the Rural Zone. These are activities controlled through the Southland Regional Council’s Regional Plans and should be permitted through compliance with the earthworks and cleanfill provisions of this Zone.</p> <p><u>Decision Sought:</u></p> <ul style="list-style-type: none"> Delete and redraft the rule to enable the continuation of earthwork activities required for day to day operations of a farm; either by removing the volume controls and focusing more on effects or by increasing the maximum volume in the Rural Zone to 2,000m³. 	<p>Decision 26/25 This submission is accepted in part by adopting Decision 26/23 and making the amendments to the District Plan set out below.</p> <p>Amendments to District Plan Amend Section Four of the Plan as follows:</p> <p>Borrow Pit: Means the excavation and stockpiling of material from the ground for use <u>on the property on which it is extracted. This excludes the extraction of minerals (other than industrial rock and building stones) or other such processes, without undertaking any extraction of minerals or other such processes, on the property on which it is extracted.</u></p> <p>Earthworks: Means the disturbance of land surfaces by the removal or depositing deposition of material, excavation, filling or the formation of roads, banks, tracks. <u>“Earthworks” includes preparing the ground for building foundations or service trenches.</u> It <u>“Earthworks” does not include the cultivation of farm land or the digging of holes for the erection of posts, planting of trees or other vegetation, or the cultivation of farm land.</u></p> <p>Farm Landfill: Means a landfill located <u>on a rural property used to dispose of household waste generated on that property. It does not include the disposal of any</u></p>

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<ul style="list-style-type: none"> • Delete volume limits relating to earthworks necessary for normal farm activities in the Rural Zones; and • Provide for earthworks related to farm landfills, dead holes, and fencing in the Rural Zones. 	<p><u>hazardous waste, dead animal material or any waste generated from any industrial or trade process on that property.</u></p> <p>Industrial Rocks and Building Stones: <u>Includes aggregate, basalt, diatomite, dunite, granite, limestone, marble, perlite, pumice, sandstone, serpentine, slate, sand and gravel.</u></p> <p>Landfill: <u>Means a site used for the deposition of solid waste, including material that does not meet the definition of “cleanfill”, on to or into land. This excludes farm landfills and dead holes.</u></p> <p>Mineral: <u>Means a naturally occurring inorganic substance beneath or at the surface of the earth, whether or not under water; and includes all metallic minerals, non-metallic minerals, fuel minerals, precious stones, industrial rocks and building stones, and a prescribed substance within the meaning of the Atomic Energy Act 1945.</u></p> <p>Mineral Extraction: <u>Means to take, win, or extract, by whatever means, a mineral existing in its natural state in land, or a chemical substance from that mineral, for the purpose of obtaining the mineral or chemical substance; but does not include prospecting or exploration; and “to mine” has a corresponding meaning. Mining includes quarrying but does not include extraction from borrow pits.</u></p> <p>Dead Hole (Offal Pit): <u>Means a hole excavated on a rural property to be used only for the purpose of disposing of dead animal or plant matter generated on that property.</u></p> <p>Reasons</p> <ol style="list-style-type: none"> 1. Providing for farm cultivation and borrow pits in Decision 26/23 enables day-to-day farm activities to be undertaken. In addition, that decision increases the maximum quantity of earthworks from 200m³ to 2,000m³ in the rural areas. This is considered appropriate for farming activities. 2. Additional definitions are necessary as a consequence to Decision 26/23. 3. The definition of earthworks excludes digging of holes for the erection of posts and therefore fencing does not trigger the earthworks rule. 4. It is agreed that farm landfills and dead holes are adequately addressed in the Regional Council’s Water Plan (Rules 54 and 55), particularly with regard to distance from dwellings, and that it would

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	be onerous for the Council to include rules on these also but this will not exempt these activities from the maximum limits for earthworks.
<p>88.88 Federated Farmer Support Rule 3.17.3 in part. The submitter supports a discretionary activity status for activities not compliant, providing the maximum threshold for Rule 3.17.2 is increased to a maximum volume of 2,000m³ in the Rural Zone. Amend the maximum volume for a permitted activity in Rule 3.17.2 to 2,000m³, and adopt this rule as proposed.</p>	<p>Decision 26/26 This submission is noted.</p> <p>Amendments to District Plan None required.</p> <p>Reason The submitter supports Rule 3.17.2 and seeks no change to it. Other matters raised by the submitter are considered in Decisions 26/23 and 26/25 above.</p>
<p>91.25 PowerNet Ltd Oppose Rule 3.17.3. In the event that the relief sought by the submitter in relation to Rule 3.17.2 is rejected, the submitter considers that resource consent for a controlled activity is more appropriate in relation to network utility operations and that a new Rule should be inserted into the plan to provide for such activities.</p> <p><u>Decision Sought:</u> Insert new Controlled Activity Rule as follows: It is a controlled activity to undertake any earthworks associated with electricity distribution activities that do not comply with any of the provisions of Rule 3.17.2 above.</p>	<p>Decision 26/27 This submission is noted.</p> <p>Amendments to District Plan None required.</p> <p>Reason Decision 26/24 clarifies that utilities are the subject of rules in Section 3.9 of the Plan.</p>
<p>71.58 NZAS Ltd Oppose Rule 3.17.4. The submitter considers the rule is unclear whether changes to existing landfills will be assessed as a non-complying activity in accordance with this rule.</p> <p><u>Decision Sought:</u> Amend 3.17.4 as follows: Any <u>new</u> landfill is a non-complying activity.</p> <p><u>Explanation:</u> This rule does not apply to the expansion of a landfill if the landfill existed at the time this Plan came into force.</p>	<p>Decision 26/28 This submission is rejected.</p> <p>Amendments to District Plan None required.</p> <p>Reason The word "new" is not required and landfills legally established prior to the rule coming into force have existing use rights.</p>
<p>88.89 Federated Farmers Oppose Rule 3.17.4. The submitter considers that farm landfills are a legitimate, expected and essential part of the day to day operations of a farm, and the adverse effects are controlled through the Southland Regional Council's Regional Plans and</p>	<p>Decision 26/29 This submission is accepted in part by adopting Decision 26/25.</p> <p>Amendments to District Plan</p>

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<p>should be permitted through compliance with the earthworks and cleanfill provisions in the Rural Zone of the ICC District Plan.</p> <p>The submitter considers that where there are specific concerns that are not addressed though the Southland Regional Plan, Federated Farmers prefers these adverse effects are identified and managed through specific rules rather than designating landfills in the Rural area a non-complying activity.</p> <p><u>Decision Sought:</u> Rule 3.17.4 is deleted, and farm landfills are specifically provided for as a permitted activity in Rule 3.17.2.</p> <p>Where Council has concerns with potential adverse effects from farm landfills that are not addressed through the Southland Regional Plan, these effects are dealt with specifically.</p>	<p>No further amendments are required.</p> <p>Reason It is agreed that farm landfills and dead holes are adequately addressed in the Regional Council's Water Plan (Rules 54 and 55), particularly with regard to distance from dwellings, and that it would be onerous for the Council to include rules on these also but there will be some circumstances, as set out in Rule 3.17, where these activities will not be exempt from controls and maximum limits for earthworks.</p>
<p>87.52 Transpower NZ Ltd Support in part Rule 3.17.5. The submitter considers that the need to provide a management plan is specifically related to landfills or cleanfills, and will not generally be required for earthworks such as those associated with the National Grid.</p> <p><u>Decision Sought:</u> That the Assessment Matters 3.17.5 be amended as follows, with any consequential amendments:</p> <p>Applications under Rules 3.17.3 and 3.17.4 above shall address the following matters, which will be among those taken into account by the Council:</p> <p>.....</p> <p>(H) Any management plan for the a proposed <u>landfill or cleanfill</u> facility, which addresses:</p> <ol style="list-style-type: none"> (a) The methods proposed to ensure that inappropriate material is not deposited. (b) The proposals to monitor the filling operation. (c) Site rehabilitation. (d) The proposed systems for record keeping in relation to the operation and monitoring of the filling operation. (e) Proposals for ongoing monitoring of the filled site. (f) Proposals for hazard mitigation including any contamination. (g) The visual or amenity effects of the fill such as changes to landform and shading." 	<p>Decision 26/30 This submission is accepted in part by adopting Decision 26/24.</p> <p>Amendments to District Plan No further amendments are required.</p> <p>Reason Decision 26/24 reinforces the District Plan provisions that exempt utilities from the provisions of this section of the Plan.</p>
<p>117.42 Southern District Health Board The submitter supports Rule 3.17.5(B) subject to amendment. The submitter would like to see the term "nuisance" removed as the submitter believes this has</p>	<p>Decision 26/31 This submission is accepted.</p> <p>Amendments to District Plan</p>

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<p>connotations of civil torts and is not appropriate within RMA based plan rules.</p> <p><u>Decision Sought:</u> Support with amendment</p> <p>a. In (B), delete word “nuisance”.</p>	<p>Amend Rule 3.17.5(B) by adopting Decision 26/23.</p> <p>Reason The amendment corrects a minor wording error.</p>
<p>87.53 Transpower NZ Ltd Support Rule 3.17.6 in part. The submitter considers that the rule should be amended to clarify that if a building or structure is proposed to be erected on a site, a plan for rehabilitation is not considered necessary as effects will be managed through the development of the site or potentially short term mitigation measures such as the dust suppression.</p> <p><u>Decision Sought:</u> Amend Rule 3.17.6 as follows, with any consequential amendments: Any application for resource consent (<u>except when the site is subject to future development</u>) is to be accompanied by a plan for rehabilitation of the area likely to be affected by the application.</p>	<p>Decision 26/32 This submission is rejected.</p> <p>Amendments to District Plan None required.</p> <p>Reason Decision 26/23 allows, as a permitted activity, earthworks approved as part of a Building Consent. Whether land is subject to future development is not a reason by itself to exempt earthworks from the rules, given that they could be of a scale that gives rise to significant adverse effects.</p>
<p>76.1 Placer Investments Ltd Oppose Rule 3.17.8. The submitter believes that the proposed change in status for the extraction of minerals from discretionary to non-complying, coupled with the Tiwai Peninsula classification as an outstanding natural feature and landscape, will effectively stop further mineral exploration on the Tiwai Peninsula. The submitter considers that because of the historic use and current state of Tiwai Peninsula it is unclear why the extraction of minerals is a non-complying activity, particularly given the potential economic benefits that mining in the area can have.</p> <p><u>Decision Sought:</u> EITHER Amend 3.17.8 as follows: Except as provided for in 3.17.7 above, all land use activities involving the extraction of minerals is a non-complying <u>discretionary</u> activity. OR Retain the non-complying activity status for the extraction of minerals with the exception that mineral extraction at Tiwai Peninsula is discretionary.</p> <p>FS8.11 Department of Conservation opposes submission 76.1 and considers the non-complying activity status for mineral extraction to be appropriate. The further submitter notes that the rule covers mineral extraction across the district and is not specific to Tiwai Peninsula. The further submitter also notes that the Tiwai</p>	<p>Decision 26/33 This submission is rejected.</p> <p>Amendments to District Plan None required.</p> <p>Reasons</p> <ol style="list-style-type: none"> 1. An activity status of non-complying does not prohibit an application for resource consent being made or granted, but does provide an additional gateway test under Section 104D of the RMA. Under Section 104D a consent authority may grant resource consent for a non-complying activity only if it is satisfied that the adverse effects of the activity on the environment will be minor or that the application is not contrary to the objectives and policies of the Plan or Proposed Plan. 2. Mineral extraction activities can result in significant adverse effects on the environment and it is therefore appropriate to impose an activity status of non-complying. 3. Tiwai Peninsula is a high value area, identified on the District

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<p>Peninsula is a significant site, being an outstanding natural feature and landscape, an area of significant indigenous biodiversity, is within an area of the coastal environment of high natural character and is public conservation land managed by the Department of Conservation</p>	<p>Planning Maps as an outstanding natural feature and landscape, an area of significant indigenous biodiversity, and within the coastal environment. It is therefore very important for the Council to ensure that any activity within this area will have no more than a minor effect on the environment.</p>
SECTION FOUR DEFINITIONS	
<p>90.29 H W Richardson Group Ltd Oppose in part. The submitter considers that the definition of “Cleanfill” should be consistent with that proposed in the Regional Water Plan for Southland.</p> <p><u>Decision Sought:</u> Amend the definition of cleanfill as follows:</p> <p>Cleanfill: Means any material that when buried will have <u>no or minimal</u> adverse effect on people or the environment. Cleanfill material includes virgin natural materials such as clay, soil and rock and other inert materials <u>from construction or demolition activities</u> such as concrete or brick that are free of:</p> <ol style="list-style-type: none"> 1. Combustible, putrescible, degradable or leachable components. 2. Hazardous substances. 3. Products or materials derived from <u>the treatment, stabilisation or disposal of hazardous waste.</u> and waste treatment, hazardous waste stabilisation or hazardous waste disposal practices. 4. Materials that may present a risk to human or animal health such as medical and veterinary waste, asbestos or radioactive substances. 5. Liquid waste. 	<p>Decision 26/34 This submission is accepted in part.</p> <p>Amendments to District Plan Amend the third bullet point of the definition of “Cleanfill” as follows:</p> <ul style="list-style-type: none"> • Products or materials derived from <u>the treatment, stabilisation or disposal of hazardous waste</u> treatment, hazardous waste stabilisation or hazardous waste disposal practices. <p>Reasons</p> <ol style="list-style-type: none"> 1. The amendment made provides certainty to the definition. 2. All other changes sought add no value to the definition. The term “minimal” is not quantifiable and leaves the definition open to debate.
<p>90.31 H W Richardson Group Ltd The submitter considers that activities undertaken as part of construction, operation and maintenance of roading projects should be explicitly excluded from the definition of “Landfill”. The submitter considers the definition should also be Landfill as proposed as part of Plan Change 14 to the Regional Water Plan.</p> <p><u>Decision Sought:</u> Amend the definition of landfill as follows:</p> <p>Means a site used for the deposition of solid waste, including material that does not meet the definition of “cleanfill”, on to or into land <u>but excludes a cleanfill site, earthworks associated with any road, driveway or track, and any area within a road reserve containing a formed road that is used for the deposition of roading material.</u></p>	<p>Decision 26/35 This submission is rejected.</p> <p>Amendments to District Plan None required.</p> <p>Reason The provisions of the Plan seek to avoid the depositing of solid waste on to or into land. The exemption sought would allow for the uncontrolled depositing of solid waste in association with the formation of a road, driveway, or track, or within a road reserve. This would not be acceptable and is inconsistent with the objectives and policies of the Plan.</p>

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<p>90.33 H W Richardson Group Ltd</p> <p>The submitter considers that it is necessary to insert a definition of “cleanfill site” to ensure there is clarity in terms of the amendments it suggested relating to the definition of “landfill”, and to be consistent with Plan Change 14 to the Regional Water Plan for Southland. Insert a definition of "Cleanfill Site"</p> <p><u>Cleanfill Site means land used for the permanent disposal of cleanfill and no other type of material but excludes earthworks on the same landholding, earthworks associated with any road driveway or track, and any area within a road reserve containing a formed road that is used for the deposition of roading material.</u></p>	<p>Decision 26/36</p> <p>This submission is rejected.</p> <p>Amendments to District Plan</p> <p>None required.</p> <p>Reason</p> <p>The Plan does not use the term “cleanfill site”.</p>

SECTION TWO ISSUES, OBJECTIVES AND POLICIES

2.13 SOILS, MINERALS AND EARTHWORKS

...
The District's soils range from Class 2 to Class 5. Class 2 arable horticultural soil was the most versatile soil found in the District by the McIntosh study. These soils are delineated on the District Planning Maps as high value soils.¹

...
Some rural areas within the District have a history of problems with on-site wastewater disposal. These areas generally include areas with poor draining soils and a higher density of residential activity than other rural areas. On-site wastewater disposal system failures can have adverse impacts on the amenity of these areas and, the public health of residents, and the health, life supporting capacity and productive value of the soil.²

2.13.3 Policies

Policy 2 ~~Versatile~~ **High Value Soils:** To identify the ~~versatile~~ high value soils of the District and to delineate these on the District Planning Maps.³

***Explanation:** ~~The versatile soils~~ District's high value soils are particularly important because they comprise such a small proportion of the soil resource of the District.*

Policy 3 ~~Protection for Versatile~~ **High Value Soils:** To protect the District's ~~versatile~~ high value⁴ soils from the expansion of urban development ~~over the district's versatile soils.~~⁵

***Explanation:** ~~The district does not have high quality soils but there are areas of highly versatile soils, particularly to the north, that are an important resource that should be kept available for the production of food. The District's high value soils are an important resource that should be kept available for the production of food. Urban expansion typically reduces high value soil stocks either by reducing the total area or impairing the remaining soils. Such changes are effectively irreversible, because top soils can take thousands of years to develop.~~*⁶

Policy 5 **On-site wastewater disposal:** To require that on-site wastewater disposal systems are designed for the specific conditions of the subject site and to encourage the ongoing maintenance of these systems.⁷

***Explanation:** Appropriate design, siting and operation can minimise the risks to people and the environment of malfunctioning or poorly maintained on-site wastewater systems.*

¹ Minor amendment made under Clause 16(2) of the RMA First Schedule

² Decision 26/10

³ Decision 26/8

⁴ Decision 26/8

⁵ Decision 26/16

⁶ Decision 26/8

⁷ Decision 26/6

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Policy 6 Filling and recontouring: To control land use activities and development which propose to fill or recontour land, or move or remove significant quantities of soil.

⁸**Explanation:** Some modification of the landscape is inevitable in order to provide safe and stable building platforms and roads with a suitable gradient. Earthworks can therefore be necessary for land and economic development within the District. These activities can, however, give rise to adverse environmental effects and, therefore, the effects of land fill operations and significant alterations to the soil profile need to be addressed through controls in order to avoid adverse effects on the environment and public health.

2.12.4 Methods of Implementation

Method 6 Consult and collaborate⁹ with landowners and occupiers, iwi, other councils, Central Government and other organisations, internal Council departments and local community and business groups.

Method 10 Initiate environmental advocacy for the ongoing maintenance and care of on-site wastewater disposal systems.¹⁰

2.14 SUBDIVISION

Objective 3: Subdivision and development preserves the productive capability of rural land and versatile high value¹¹ soils.

SECTION THREE RULES

3.17 SOILS, MINERALS AND EARTHWORKS

¹²**Earthworks and Mineral Extraction Filling Activities**

3.17.1 Rules 3.17.2 – 13.17.8 do not apply to:

(A) Land and activities in the Smelter Zone, Seaport 1 and 2 Zones or Industrial 1, 2, 3 and 4 Zones.

(B) The movement, deposition or removal of material when it is a necessary consequence of building a structure for which a building consent has been obtained on that site.

(C) The movement, deposition or removal of material for the purposes of work in compliance with Council's Bylaw 2013/1 Code of Practice for Land Development and Subdivision Infrastructure.

⁸ Decision 26/18

⁹ Decision 26/5

¹⁰ Decision 26/6

¹¹ Decision 26/6

¹² Decision 26/23 replaces section 3.17 in its entirety unless otherwise stated.

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(D) The movement, deposition or removal of material for the purpose of forming hard surfaces such as accessways and paths.

(E) The cultivation of land.

(F) The construction, maintenance and upgrading of utilities as provided for by Rule 3.9 Utilities¹³

3.17.2 Subject to Rule 3.1 Biodiversity, Rule 3.3 Contaminated Land, Rule 3.8 Heritage, Rule 3.9 Utilities, Rule 3.10 Natural Features, Landscapes and Townscapes, Rule 3.12 Natural Hazards and Rule 3.17.3 it is a permitted activity to undertake the following earthwork activities:

(A) Activities associated with the construction, operation, maintenance, repair and upgrading of utilities not provided for by Rules 3.17.1(C) and 3.17.1(F).

(B) The excavation, stockpiling and use of material from a borrow pit.

(C) The construction and operation of dead holes and farm landfills.

(D) All other earthworks provided that the quantity of earthworks undertaken in a 12 month period shall not exceed:

(a) 50m³ per site up to 1000m², plus 50m³ for every additional 1,000m² or part thereof, thereafter, in the Residential 1, 1A, 2 and 3, Business 1, 2, 3, 4, 5 and 6, and Otatara Zones.

(b) 2,000m³ per site in the Rural Zone.

(c) 1,000m³ per site in all other zones.

3.17.3 The following conditions apply to the permitted activities in Rule 3.17.2:

(A) Within the Rural Zone no more than 50m³ shall be deposited onto, or extracted from, land containing high value soils, as shown on the District Planning Maps

(B) Within the Airport Protection Zone or the Otatara Zone no earthworks shall result in standing bodies of water greater than 10m² in area.

3.17.4 It is restricted discretionary activity to undertake earthwork activities that do not comply with Rule 3.17.3(A).

The matters over which the Council shall exercise its discretion are:

(A) The depth and volume of material deposited on the land and its effect on the sustainability of the soil resource.

(B) Any effects on the future use of the land.

(C) The management of dust and noise.¹⁴

¹³ Decision 26/24

¹⁴ Decision 26/31

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(D) Provision to be made for the rehabilitation of the land.

3.17.5 It is restricted discretionary activity to undertake earthwork activities that do not comply with Rule 3.17.3(B).

The matters over which the Council shall exercise its discretion are:

(A) Any effect on the operation of Invercargill Airport and the movement of aircraft to and from the airport resulting from the congregation of birds on the land.

(B) Methods to avoid, remedy, or mitigate potential conflict with the safe and efficient operation of aircraft.

Any application submitted under this rule shall include details of consultation undertaken with Invercargill Airport Limited and its outcome.

3.17.6 It is a non-complying activity to:

(A) Establish and operate a landfill.

(B) Undertake activities to extract minerals from the ground, except where provided for by 3.17.2(B).

3.17.7 It is a discretionary activity to undertake earthworks not provided for by Rules 3.17.2 to 3.17.6.

3.17.8 In addition to matters required to be included in a resource consent by the Resource Management Act 1991, applications under Rules 3.17.6 and 3.17.7 above shall include:

(A) An assessment of the following:

(a) The nature and volume of any fill or extracted material proposed.

(b) The effects on the sustainability of the soil resource.

(c) Potential effects of dust and noise, including traffic to and from the site and machinery on the site.

(d) The location and standard of any access to or egress from the site which is proposed to be used and any upgrades proposed, including on the adjoining roading network.

(e) Effects on natural water bodies and established drainage networks.

¹⁵(f) Any effect on sites of:

(i) heritage and/or archaeological significance, and cultural importance to Iwi listed in Appendix II;

¹⁵ Decision 26/4

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(ii) outstanding natural features and landscapes and/or significant indigenous biodiversity shown on the District Planning Maps.

(g) Any effect on the future development potential of the land.

(B) A management plan which considers:

(a) Where filling is proposed:

(i) The methods proposed to ensure that inappropriate material is not deposited on the land.

(ii) Proposals to monitor the filling operation.

(b) Site rehabilitation, including its timing and any proposed landscaping.

(c) Proposals for ongoing monitoring of the site.

3.38 RURAL 4 ZONE

3.38.11 Applications under Rules 3.38.9 and 3.38.10 above shall address the following matters, which will be among those taken into account by the Council:

(l) the ability to provide for on-site sewage treatment and disposal on the site.¹⁶

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Borrow Pit: Means the excavation and stockpiling of material from the ground for use on the property on which it is extracted. This excludes the extraction of minerals (other than industrial rock and building stones) or other such processes. ~~without undertaking any extraction of minerals or other such processes, on the property on which it is extracted.~~¹⁷

¹⁸**Cleanfill:** Means material that when buried will have no adverse effect on people or the environment. Cleanfill material includes virgin natural materials such as clay, soil and rock, and other inert materials such as concrete or brick that are free of:

- Combustible, putrescible, degradable or leachable components
- Hazardous substances
- Products or materials derived from the treatment, stabilisation or disposal of hazardous waste treatment, hazardous waste stabilisation or hazardous waste disposal practices
- Materials that may present a risk to human or animal health such as medical and veterinary waste, asbestos or radioactive substances
- Liquid waste.

Dead Hole (Offal Pit) Means a hole excavated on a rural property to be used only for the purpose of disposing of dead animal or plant matter generated on that property.¹⁹

¹⁶ Decision 26/5

¹⁷ Decision 26/25

¹⁸ Decision 26/34

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Earthworks: Means the disturbance of land surfaces by the removal or ~~depositing~~ deposition of material, excavation, filling or the formation of roads, banks, tracks. “Earthworks” includes preparing the ground for building foundations or service trenches. ~~It~~ “Earthworks” does not include the cultivation of farm land or the digging of holes for the erection of posts, planting of trees or other vegetation, ~~or the cultivation of farm land.~~ ²⁰

Farm Landfill: Means a landfill located on a rural property used to dispose of household waste generated on that property. It does not include the disposal of any hazardous waste, dead animal material or any waste generated from any industrial or trade process on that property. ²¹

High Value Soils: Soils identified as Class 2 arable horticulture in the PD McIntosh and J R F Barringer’s study *Classification of Land for Horticulture, Forestry and Urban Use in Invercargill City*. These soils are known to be highly productive and suitable for multiple uses such as growing a wide range of crops, pasture and forest and of high versatility for pastoral farming. ²²

Industrial Rocks and Building Stones: Includes aggregate, basalt, diatomite, dunite, granite, limestone, marble, perlite, pumice, sandstone, serpentine, slate, sand and gravel. ²³

Landfill: Means a site used for the deposition of solid waste, including material that does not meet the definition of “cleanfill”, on to or into land. This excludes farm landfills and dead holes. ²⁴

Mineral: Means a naturally occurring inorganic substance beneath or at the surface of the earth, whether or not under water; and includes all metallic minerals, non-metallic minerals, fuel minerals, precious stones, industrial rocks and building stones, and a prescribed substance within the meaning of the Atomic Energy Act 1945. ²⁵

Mineral Extraction: Means to take, win, or extract, by whatever means, a mineral existing in its natural state in land, or a chemical substance from that mineral, for the purpose of obtaining the mineral or chemical substance; but does not include prospecting or exploration; and “to mine” has a corresponding meaning. ~~Mining includes quarrying but does not include extraction from borrow pits.~~ ²⁶

Site: An area of land which is composed of one allotment in one Certificate of Title or two or more contiguous allotments held together in one or more Certificates of Title in such a way that the allotments cannot be dealt with separately without the prior consent of the Council. ²⁷

¹⁹ Decision 26/25

²⁰ Decision 26/25

²¹ Decision 26/25

²² Decision 26/8

²³ Decision 26/25

²⁴ Decision 26/25

²⁵ Decision 26/25

²⁶ Decision 26/25

²⁷ Decision 26/23

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PLANNING MAPS

- Remove filled land data from the District Planning and Hazard Information Maps.²⁸
- Change legend and any references to “versatile soils” to “high value soils”.²⁹

OTHER

The term “versatile soils” throughout the Plan is replaced with “high value soils”.³⁰

²⁸ Decision 26/7

²⁹ Decision 26/8

³⁰ Decision 26/8