EARTHWORKS – EW

Overview

Earthworks and other *land disturbance* are a necessary part of *subdivision*, land use and development. Changes in *ground level* and creating areas of level *land* is required to carry out a range of activities and the construction of *buildings* and *infrastructure*. However, if not appropriately managed, adverse *effects* can arise, including *land* instability, sediment loss and increased *natural hazards*, with impacts on amenity, Ngāi Tahu cultural values, strategic *infrastructure* and the natural *environment*.

~~This chapter excludes~~ ~~*e*~~*Earthworks* and *land disturbance* provisions relating to *Historic Heritage* ~~*sites*~~ items in HH-SCHED2 and *archaeological sites* in HH-SCHED3, ~~*Significant Natural Areas*~~, Outstanding Natural Landscapes, ~~or Features and Amenity Landscapes~~ areas of flooding hazard risk and the root protection area of *notable trees* are contained in the Historic Heritage, Natural Features and Landscapes, Natural Hazards and Notable Trees~~. For *earthworks* rules relating to these topics, refer to those c~~Chapters. Provisions for *mining* and q*uarrying* are found in the Rural Zone chapters. [1]

An archaeological alert layer included on the online Council maps provides a mechanism to highlight areas where archaeology is known to be present or where current or future development may impact upon as yet unrecorded *archaeological sites*, both above ground and subsurface. The layer does not indicate that these are the only places where archaeology may be encountered. Any proposed development, within the layer or not, should assess whether there is reasonable cause to suspect that archaeology may be present to ensure compliance with the archaeological provisions of the Heritage New Zealand Pouhere Taonga Act 2014. If a previously unknown *archaeological site* is discovered during works, then the accidental discovery protocol outlined in EW-S6 applies.[2]

In addition to the District Plan provisions, consent may also be required for *earthworks* under Regional Plan provisions and/or National Environmental Standards.

Objectives

EW-O1[3] *Earthworks* and *land disturbance* for *subdivision*, land use and development are facilitated and undertaken in a manner that minimises adverse *effects* on the ~~surrounding~~ environment and protects the natural *environment*, Ngāi Tahu cultural values ~~as~~ listed in MW-1.2 people and property.

[1] Decision 37, paragraph 4.2.7
[2] Decision 37, paragraph 4.2.7
[3] Decision 37, paragraph 4.3.6

Policies

EW-P1 Recognise the benefits and necessity of *earthworks* for the *subdivision*, use and development of land and the provision of utilities, by enabling *earthworks* and *land disturbance*:

1. for a range of small scale and *temporary activities* that are associated with and support anticipated *subdivision* and land development, such as fencing and service connections, geotechnical investigations, septic systems, underground storage tanks and clearing of *drains*;
2. associated with ~~rural~~ primary [4]production, where these are located in the General Rural Zone;
3. that provide for the construction, upgrade or maintenance and repair of the *transport network*, recreational tracks and *network utilities*; ~~or~~and
4. that are of a bulk, scale and form appropriate to the anticipated character and amenity of the Zone.

EW-P2 Allow for *earthworks* within the *National Grid Yard* where these are of a scale and nature that will not compromise the safe and efficient functioning, operation, maintenance and repair, upgrading and development of the *National Grid*.

~~EW-P3 Allow for *earthworks* of a limited bulk and scale within areas of potential inundation to ensure these do not exacerbate inundation or flooding effects on other sites.~~ [5]

EW-P~~4~~3 Require *earthworks* to be appropriately designed, located and undertaken so that:

1. the cut depth and fill *height* does not [6]detract from the amenity or stability of other *sites*;
2. unretained batters are designed and managed to ensure people and property are protected;
3. *earthworks* near *rivers* and *streams* are managed to ensure *river* and *stream* values are maintained or enhanced;
4. *earthworks* on steeper slopes are managed the ensure *land* stability is maintained;
5. *dust*, sediment and erosion are controlled to protect *land* stability, air, soil and *water* quality;
6. the area of disturbed ground is stabilised and replanted in a timely manner to minimise visual *effects*, *dust*, sediment or erosion; and

[4] Decision 37, paragraph 4.4.4
[5] Decision 37, paragraph 4.6.3
[6] Decision 37 paragraph 4.7.3

7. *accidental discovery* protocol outlined at EW-S6 ~~inclusive of Ngāi Tahu tikanga and values~~[7] is followed in the event of discovery of *sensitive material* or unknown *archaeological sites*.

EW-P~~5~~4 Manage *earthworks* that are of a nature, scale or in a location where there may be adverse *effects* to ensure that:

1. the *earthworks* do not exacerbate or create any *natural hazard*, such as impact on *land* stability or inundation or flooding *effects* on other *sites*;
2. the natural character of *rivers* and their margins are preserved and *water* quality, *stream* health, the intrinsic values of *ecosystems*, ~~Ngāi Tahu cultural~~ *mauri* and *mahinga kai*[8], and public *access* are maintained or enhanced;
3. the design, location and undertaking of *earthworks* recognise Ngāi Tahu cultural values listed in MW-1.2, including *whakapapa* ~~a consideration of~~ and cultural landscapes, protects *archaeological sites*, any *wāhi tapu* and ~~cultural sites of significance, and limits any adverse effects on the underlying relationship Ngāi Tahu hold with the natural environment.~~ mitigates any other adverse *effects* on *mana whenua*[9].
4. any changes to the natural landform minimise the visual *effects* on the landscape character, and *indigenous vegetation* is maintained, replaced or enhanced;
5. the safe and efficient functioning of ~~the *transport network* or regionally significant~~ *critical infrastructure* is not impacted; and
6. they are compatible with the character of the underlying Zone and anticipated *amenity values* of surrounding *sites* are maintained by controlling:
   (a) ongoing adverse *effects* such as visual *effects*, overlooking, shading or dominance from the bulk and scale; and
   (b) potential short term adverse *effects* such as the visual appearance of the works, *dust*, *noise* and vibration and traffic *effects*.

~~**Notes**~~[10]

~~**Note 1 Provisions in Other Chapters**~~

~~The provisions in this chapter apply in addition to the provisions of the other chapters in the District Plan and the plan should be read as a whole.~~

[7] Consequential to changes to EW-S7
[8] Decision 37 paragraph 4.8.7
[9] Decision 37, paragraph 4.8.7
[10] Decision 37, paragraph 4.2.5

~~This chapter also implements other chapters in the District Plan that do not have specific rules such as Sites and Areas of Significance to Māori and Mana Whenua.~~

~~Note 2~~	~~Gore District Council Subdivision and Land Development Engineering Standards~~

~~The Gore District Council Subdivision and Land Development Bylaw 2019 provides layout and design standards that apply to construction and *land* development activities. In addition to the requirements of the District Plan, compliance is the required with the provisions and processes of the Bylaw, or any subsequent Council Engineering Code of Practice replacing it.~~

~~Note 3~~	~~*Accidental Discovery* Protocol~~

~~**Heritage New Zealand Pouhere Taonga Act 2014**~~

~~Should an archaeological site or wāhi tapu site be discovered as a result of earthworks these may also require authorisation under the Heritage New Zealand Pouhere Taonga Act 2014.~~

~~An archaeological authority is required under the Heritage New Zealand Pouhere Taonga Act 2014 to modify or destroy an archaeological site. If you wish to do any earthworks that will or may modify or destroy the whole or any part of an archaeological site, you must first obtain an authority from Heritage New Zealand Pouhere Taonga. This is the case regardless of whether the site is designated, or the activity is permitted under the District Plan or Regional Plan, or a resource or building consent has been granted.~~

~~The Heritage New Zealand Pouhere Taonga Accidental Discovery Protocol manages unidentified archaeological sites that may be discovered as a result of earthworks. It is not always appropriate to operate under an Accidental Discovery Protocol. If there is cause to suspect any works may encounter archaeology, an archaeological assessment should be undertaken by a consultant archaeologist to determine whether an archaeological authority is required to be obtained.~~

~~Heritage New Zealand Pouhere Taonga and mana whenua via Hokonui Rūnanga should be consulted regarding any activity which may result in the modification, damage or destruction of any entry on the New Zealand Heritage List/Rārangi Kōrero or any archaeological site recorded on the New Zealand Archaeological Association's (NZAA) national database of recorded archaeological sites, Archsite.~~

~~**Ngai Tahu ki Murihiku Accidental Discovery Protocol**~~

~~Should a Ngāi Tahu Kōiwi, archaeological site, taonga or artefact or in-situ (natural state) pounamu/greenstone be uncovered mana whenua will need to be contacted via Hokonui Rūnanga and the Ngai Tahu ki Murihiku Accidental Discovery Protocol must be followed. This process is set out in the Section 4.1 of the Mana Whenua chapter of the District Plan.~~

~~Note 4~~	~~Archaeological alert layer~~
	~~The archaeological alert layer provides a mechanism to highlight areas where archaeology is known to be present or where current or future development may impact upon as yet unrecorded *archaeological sites*, both above ground and subsurface. The layer does not indicate that these are the only places where archaeology may be encountered. Any proposed development, within the layer or not, should assess whether there is reasonable cause to suspect that archaeology may be present to ensure compliance with the archaeological provisions of the Heritage New Zealand Pouhere Taonga Act 2014.~~

Rules

~~*Earthworks and Land Disturbance Exempt from District Plan Rules in this Chapter*~~[11]	
~~**All Zones**~~	~~Earthworks and Land Disturbance of the following activities are exempt from the rules in this chapter of the District Plan:~~ ~~1. Cultivation of land~~ ~~2. Planting vegetation, trees and crops~~ ~~3. Restoration of indigenous vegetation~~ ~~4. Gardening, planting or any vegetation and/or the construction or maintenance of garden amenities~~ ~~5. Drilling bores~~ ~~6. Internments in a burial ground, cemetery or urupā, within the burial plot of that internment~~ ~~7. Filling of building foundation with granular fill under concrete slab foundation~~ ~~8. Filling with drainage metal behind a retaining wall~~ ~~9. Digging of hāngī pits, or other small-scale cultural cooking methods~~ ~~10. Earthworks either permitted by a rule in a regional plan or Resource Consent issued by Environment Southland.~~ ~~11. Earthworks for natural hazard mitigation undertaken by or on behalf of a statutory authority.~~

[11] Decision 37, paragraph 5.1.18

EW-R1	***Land disturbance* for the construction of *fences*** [12]	
All Zones ~~**Excluding *Historic Heritage* sites, *Significant Natural Areas*, Outstanding Natural Landscapes or Features**~~	**Activity status:** Permitted Where: ~~1. Any *land disturbance* does not exceed:~~ ~~(a) 1 metre in width for more than 10 metres in any 100-metre length; and/or~~ ~~(b) 1 metre in *height* or depth; and~~ ~~2. The ground is reinstated to original levels within 48 hours of work being completed.~~ ~~3~~1. The works are undertaken in accordance with Earthworks Standards EW-S3, EW-S~~5~~4 and EW-S~~7~~6. *Note: The disturbance of land for the installation of fence posts is exempt from the earthworks rule.*	**Activity status where compliance is not achieved ~~with~~ with EW-S3 or EW-S4** Restricted Discretionary **Matters of discretion:** 1. The timing and duration of the works. 2. *Effects* on ground stability. 3. *Effects* on any *adjoining land*, including visual *effects*. 4. Visual amenity and landscape *effects*. 5. Sediment, erosion and *dust* management. ~~6. Impacts on Ngāi Tahu cultural values, including those listed in MW-2.3.~~ ~~7.~~6.The matters of discretion of any infringed Standard(s). **Activity status where compliance is not achieved with EW-S6:** Non-Complying
EW-R2	**Test pits or boreholes necessary as part of a geotechnical assessment**	
EW-R3	**Installing septic tanks and associated drainage fields**	
~~**EW-R4**~~	~~**Disposal of spoil from *drain* clearance work within the *site* the *drain* is located.**~~ [13]	
EW-R~~5~~4	**Replacement, removal and installation of underground storage tanks**	
EW-R~~6~~5	**Service connections**	
All Zones[14]	**EW-R2 to EW-R~~6~~5** **Activity status:** Permitted	**Activity status where compliance is not achieved with Conditions (1) and (2) or EW-S1, EW-S3 or EW-S4** Restricted Discretionary

[12] Decision37, paragraph 5.2.9
[13] Decision 37, paragraph 5.3.8
[14] Decision 37, paragraph 5.3.8

	Where: 1. The ground is reinstated to original levels within 48 hours of work being completed; 2. Trenching for connection to services is no deeper than 1.0 metre and no wider than 1.0 metre for underground *infrastructure*, provided that no more than 120 metres of trench is open at any one time; and 3. The works are undertaken in accordance with Earthworks Standards EW-S1, EW-S3, EW-S4 ~~EW-S5~~ and EW-S~~7~~6 except that for the replacement, removal and installation of underground storage tanks the Earthworks Standards EW-S3, EW-S4, and EW-S6 apply, and sides of the cut are prevented from slumping.	**Matters of discretion:** 1. The timing and duration of the works. 2. *Effects* on ground stability. 3. *Effects* on any *adjoining land*. 4. Visual amenity and landscape *effects*. 5. Sediment, erosion and *dust* management~~.~~ ~~6. Impacts on Ngāi Tahu cultural values, including those listed in MW 2.3~~[15]. ~~7~~6. The matters of discretion of any infringed Standard(s). **Activity status where compliance is not achieved with EW-S6:** Non-complying [16]
EW-R~~7~~6[17] **EW-R~~8~~7** **EW-R~~9~~8**	**Digging of *dead holes* and farm rubbish pits** ***Earthworks* for *silage pits*** ***Earthworks* for the construction, maintenance and repair or upgrade of a *farm track* or *farm infrastructure***	
General Rural Zone[18] **~~Excluding *Historic Heritage* sites, *Significant Natural Areas*, Outstanding~~**	**EW-R~~7~~6 to EW-R~~9~~8** **Activity status:** Permitted Where: 1. The total *earthworks* area ~~in any 12 month period~~ at any one time does not exceed 2,500 m^2 per *site*.	**Activity status where compliance is not achieved with Conditions (1) and (2) or EW-S1, EW-S2, EW-S3 or EW-S4**[19] Restricted Discretionary **Matters of discretion:** 1. The timing and duration of the works. 2. *Effects* on ground stability.

[15] Decision 37, paragraph 5.3.8
[16] Decision 37, paragraph 5.3.8
[17] Decision 37, paragraph 5.4.10
[18] Decision 37, paragraph 5.4.10
[19] Decision 37, paragraph 5.4.10

~~**Natural Landscapes or Features**~~	2. The area is progressively stabilised, filled or recontoured; and 3. The works are undertaken in accordance with *Earthworks* Standards EW-S1, EW-S2, EW-S3, EW-S4, ~~EW-S5~~ and EW-S~~7~~6 .	3. *Effects* on any adjoining *site*, including visual *effects*, *dust*, *noise*, vibration or loss of privacy. 4. Visual amenity and landscape *effects*, and whether there is a *functional need* or *operational need* for the location of the activity, and the extent to which alternative practicable options have been considered and their feasibility. 5. Sediment and erosion *effects* and management. 6. The potential to create new or exacerbate existing *natural hazards*, impact natural drainage patterns, redirect overland flow paths or flood flows. 7. *Vehicle movements* to and from the *site* related to the *earthworks* and the controls to manage *effects* on traffic safety and amenity. 8. Impacts on Ngāi Tahu cultural values~~, including those~~ listed in MW~~-2.3~~ 1.2. [20] 9. The matters of discretion of any infringed Standard(s). 10. Whether the *earthworks* are of a type, scale and form that is appropriate for the location and character of the Zone. **Activity status where compliance is not achieved with EW-S6:** Non-complying [21]
All Other Zones	**Activity status:** Non-Complying	**Activity status where compliance not achieved:** N/A

[20] Consequential to Decision 14
[21] Decision 37, paragraph 5.4.10

EW-R~~10~~9	***Earthworks*** **for the construction, upgrade or maintenance and repair of the** ***transport network*** **and recreational walking and cycling tracks**	
EW-R~~11~~10	***Earthworks*** **and** ***land disturbance*** **for** ***network utilities*****, or** ***renewable electricity generation activities*** **including associated** ***vehicle access*** **tracks**	
All Zones[22] **~~Excluding~~** ***~~Historic~~*** ***~~Heritage~~*** **~~sites,~~** ***~~Significant~~*** ***~~Natural Areas~~*****~~,~~** **~~Outstanding Natural Landscapes or Features~~**	**EW-R~~10~~9 to EW-R~~11~~10** **Activity status:** Permitted Where: 1. The total *earthworks* area open at any one time does not exceed 2,500 m^2; 2. The *earthworks* area is progressively stabilised, filled or recontoured; and 3. The works are undertaken in accordance with *Earthworks* Standards EW-S1, EW-S2, EW-S3, EW-S4, ~~EW-S5~~ and EW-S~~7~~6	[23]**Activity status where compliance is not achieved with Conditions (1) and (2) or EW-S1, EW-S2, EW-S3, EW-S4 or EW-S5** Restricted Discretionary **Matters of discretion:** 1. The timing and duration of the works. 2. The functional and *operational needs* of, and benefits derived from, the works, including the potential impact on the levels of service if the work is not undertaken. 3. *Effects* on ground stability. 4. *Effects* on any adjoining *site*, including visual *effects*, *dust*, *noise*, vibration or loss of privacy. 5. Visual amenity and landscape *effects*. 6. Sediment and erosion *effects* and management. 7. The potential to create new or exacerbate existing *natural hazards*, impact natural drainage patterns, redirect overland flow paths or flood flows. 8. *Vehicle movements* to and from the *site* related to the *earthworks* and the controls to manage *effects* on traffic safety and amenity. 9. Impacts on Ngāi Tahu cultural values~~, including those~~ listed in MW~~2.3.~~ 1.2

[22] Decision 37, paragraph 5.5.5
[23] Decision 37, paragraph 5.5.5

		10. The matters of discretion of any infringed Standard(s). 11. Effects on indigenous biodiversity and ecological connections. **Activity status where compliance is not achieved with EW-S6:** 1. Non-complying [24]
EW-R~~12~~11	***Earthworks* within *National Grid Yards*** [25]	
All Zones **~~Excluding *Historic Heritage* sites, *Significant Natural Areas*, Outstanding Natural Landscapes or Features~~**	**Activity status:** Permitted Where, within the *National Grid Yard:* 1. The depth of the *earthworks* is no greater than 300mm within 6 metres of the outer edge of the visible foundation of a *National Grid* support *structure*; ~~and~~ 2. The depth of the *earthworks* or *land* disturbance is no deeper than 3 metres when located between 6 metres and 12 metres from *the National Grid* support *structure*; ~~and~~ ~~2~~3. The stability of the *National Grid* support *structure* is not compromised; ~~and~~ ~~3~~4. Physical and practical *access* to the *National Grid* support *structures* is maintained; ~~and~~ ~~4~~5. The *earthworks* do not result in a reduction in the ground to *conductor* clearance distances, below what is required by Table 4 of NZECP34:2001; ~~and~~ ~~5~~6. The e*arthworks* ~~that~~ otherwise comply with clause 2.4.1 of NZECP34:2001; and	**Activity status where compliance is not achieved:** Non-complying

[24] Decision 37, paragraph 5.5.5
[25] Decision 37, paragraph 5.6.4

	7. All Earthworks Standards are complied with. Note: ~~Clauses (1) above~~ Rule EW-R11 does not apply to *earthworks* or *land disturbance*: 1. Undertaken as part of normal agricultural, horticultural or domestic *cultivation*, or repair, sealing or resealing of a *road*, *footpath*, driveway or *farm track*; 2. Involving vertical holes not exceeding 500mm in diameter, provided they: (a) are more than 1.5 metres from the outer edge of the pole *structure* or stay wire; or (b) are a post hole for a farm fence or horticulture *structure* more than 6 metres from the visible outer edge of the tower or support *structure* foundation.	
~~EW-R13~~[26]	***~~Earthworks~~* ~~and~~ *~~land disturbance~~* ~~within areas subject to Natural Hazards (Flooding)~~**	
~~Areas subject to Natural Hazards (Flooding)~~	**~~Activity status:~~** ~~Permitted~~ ~~Where:~~ ~~1. The work is not undertaken within the Mataura River Floodway; and~~ ~~2. The work is not undertaken on the river side of a stopbank.~~ ~~3. The work is within the Actual or Potential Inundation area and:~~ ~~(a) The activity is undertaken within the mapped Stopbank Protection Area; or~~ ~~(b) Cut depth or fill height (measured vertically) does not exceed 0.5 meters.~~	**~~Activity status where compliance is not achieved with:~~** **~~EW-R13(1) or EW-R13(2):~~** ~~Non Complying~~ **~~EW-R13(3):~~** ~~Restricted Discretionary~~ **~~Matters of discretion:~~** ~~1. The potential to create new or exacerbate existing *natural hazards*, impact natural drainage patterns, redirect overland flow paths or flood flows.~~ ~~2. *Effects* on *water* quality.~~ ~~3. Sediment and erosion *effects* and management.~~

[26] Decision 37, paragraph 5.7.12 amends and moves this Rule to NH-R4

		~~4. Impacts on Ngāi Tahu cultural values, including those listed in MW-2.3.~~ ~~5. The matters of discretion of any infringed Standard(s).~~
EW-R~~14~~12	***Earthworks* and *land disturbance* not otherwise provided for**[27]	
Commercial and Mixed Use Zones **Residential Zones** **Natural Open Space Zone** **Sport and Active Recreation Zone** **Māori Purpose Zone** **Rural Lifestyle Zone** **Settlement Zone** **Field Days Zone** **Camp Columba Zone** ~~**Excluding *Historic Heritage sites*, *Significant Natural Areas*, Outstanding Natural**~~	**Activity status:** Permitted **Where:** 1. In any 12 month period, the total volume of *earthworks* does not exceed 250 m^3 per *site*; *and* 2. All *Earthworks* ~~Effects~~ Standards are complied with.	**Activity status where compliance is not achieved with Conditions (1) or (3), or EW-S1, EW-S2, EW-S3, EW-S4 or EW-S5** Restricted Discretionary **Matters of discretion:** 1. Whether the *earthworks* are of a type, scale and form that is appropriate for the location and character of the zone. 2. The timing and duration of the works. 3. *Effects* on ground stability. 4. *Effects* on any surrounding *site*, including visual *effects*, *dust*, *noise*, vibration or loss of privacy. 5. Visual amenity and landscape *effects*. 6. Sediment and erosion control *effects* and management. 7. The potential to create new or exacerbate existing *natural hazards*, impact natural drainage patterns, redirect overland flow paths or flood flows. 8. *Vehicle movements* to and from the *site* related to the *earthworks* and the controls to manage *effects* on traffic safety and amenity.

[27] Decision 37, paragraph 5.8.8

~~**Landscapes or Features**~~		9. Impacts on Ngāi Tahu cultural values~~, including those~~ listed in MW-~~2.3.~~ 1.2. [28] 10. The matters of discretion of any infringed Standard(s). 11. Effects on indigenous biodiversity and ecological connection. 12. Whether there is a *functional need* or *operational need* for the location of the activity. **Activity status where compliance is not achieved with EW-S6:** Non-Complying
General Rural Zone **Industrial Zone** **Airport Zone** ~~**Excluding *Historic Heritage* sites, *Significant Natural Areas*, Outstanding Natural Landscapes or Features**~~	3. In any 12 month period, the total volume of *earthworks* does not exceed 1,000m^3 per *site.* 4. All *Earthworks* ~~Effects~~ Standards are complied with.	
All Zones	The following activities are exempt from this rule: (i) Interments in a burial ground, cemetery or *urupā*; (ii) Filling of building foundation with granular fill under a concrete slab foundation, or filling with drainage metal behind a retaining wall.	

Standards

EW-S1	**Cut depth and fill *height*** [29]	
All areas	1. Cut depth or fill *height* ~~shall~~ must not:	**Activity status where compliance is not achieved:**

[28] Consequential to Decision 14
[29] Decision 37, paragraph 6.2.5

	~~(b)~~ (a) exceed a cut depth or fill *height* (measured vertically) of 3 metres; or ~~(a)~~ (b) exceed a cut depth or fill *height* (measured vertically) of 0.5 ~~meters~~ metres within ~~1.5m~~ 1 metre of a *boundary* with a *site* in different ownership. *Note: a building consent may be required for retaining structures*.	Restricted Discretionary **Matters of discretion:** 1. *Effects* on any *adjoining land*, including shading, outlook and loss of privacy. 2. Visual amenity and landscape *effects*. 3. The stability of *land* or *structures* in or on the *site* or adjacent *sites*. 4. Erosion management and sediment control. 5. The potential to create new or exacerbate existing *natural hazards*, impact natural drainage patterns, redirect overland flow paths or flood flows. 6. Impacts on Ngāi Tahu cultural values~~, including those~~ listed in MW ~~2.3.~~ 1.2. [30]
EW-S2	**Unretained batters**[31]	
All areas	1. Unretained cut and fill batters ~~shall~~ must not: (a) be steeper than 2 horizontal to 1 vertical; ~~(a) be constructed using moisture content susceptible soils;~~ ~~(c)~~ (b)have a bench with a width of more than 1.8 metres; or ~~(d)~~ (c)be closer than 0.6 metres from the edge of a batter to the *kerb* or back edge of any *footpath*.	**Activity status where compliance is not achieved:** Restricted Discretionary **Matters of discretion:** 1. *Effects* on any *adjoining land*, including shading, outlook and loss of privacy. 2. Visual amenity and landscape *effects*. 3. The stability of *land* or *structures* in or on the *site* or adjacent *sites*. 4. Erosion management and sediment control.

[30] Consequential to Decision 14
[31] Decision 37, paragraph 6.3.5

		5. The potential to create new or exacerbate existing *natural hazards*, impact natural drainage patterns, redirect overland flow paths or flood flows. **6.** Impacts on Ngāi Tahu cultural values~~, including those~~ listed in MW-~~2.3.~~ 1.2.[32]
EW-S3	***Setbacks* from *rivers* and streams**[33]	
All areas	1. *Earthworks* ~~shall~~ must be *setback* the minimum distances from the top of the closest bank of a *river* or *stream* as follows: (a) 20 metres for high order *rivers* or *streams* (order 5 and above); (b) 10 metres for middle order *rivers* or *streams* (order 3 and 4); and (c) 5 metres for low order *rivers* or *streams* (order 1 and 2). Except that this standard does not apply to *earthworks* for restoration of *indigenous vegetation*. Refer to Appendix 3 for *river* and *stream* orders.	**Activity status where compliance is not achieved:** Restricted Discretionary **Matters of discretion:** 1. Whether there is a *functional need* for the works to locate in a riparian margin, and the extent to which alternative practicable options have been considered and their feasibility. 2. The *effects* on *water* quality and the stability and health of the *river* or *stream bed* and banks, including erosion and *sedimentation control measures.* 3. [34]The nature of existing riparian vegetation and the *effects* of proposed planting or modification on indigenous *biodiversity* and ~~/or habitats.~~ proposed mitigation measures, including: (a) opportunities for enhancement and restoration; (b) methods proposed to monitor or inspect the works undertaken; (c) the timing of works to minimise adverse *effects* on *threatened or at risk* indigenous species; and

[32] Consequential to Decision 14
[33] Decision 37, paragraph 6.4.9
[34] Decision 37, paragraph 6.4.9

		(d) management of potential adverse *effects* through a *biodiversity management plan*. 4. The natural character of the riparian margin and the effects of the activity on landscape values and the ability to restore, rehabilitate or enhance riparian areas. Refer to Natural Features and Landscapes – Appendix 5 – Landscape Values NFL-APP and Appendix 6 – Mataura River Natural Character – NATC APP where relevant. ~~in regard to the Mataura River.~~ 5. Impacts on Ngāi Tahu cultural values~~, including those~~ listed in MW-~~2.3.~~ 1.2.[35] 6. The effects on public and customary access to the stream or *river* or *stream.* 7. The potential for ~~flooding and~~ earthworks to create new or exacerbate existing *natural hazards*, impact natural drainage patterns, redirect overland flow paths or flood flows, including on to other *sites*.
~~**EW-S4**~~	~~**Instability of Land**~~[36]	
~~**All areas**~~	~~1. *Earthworks* shall not be undertaken on *land* with an existing slope angle exceeding 15 degrees.~~ ~~*Notes:*~~ ~~*A 15 degree slope angle is also expressed as: 1 vertical to 3.7 horizontal, or 26.8 percent.*~~ ~~*Earthworks or land disturbance must not result in any instability of land or structures at or beyond the boundary of the site where the earthworks occur. If there is reason to suspect that the earthworks may result in instability of any land, notwithstanding*~~	~~**Activity status where compliance is not achieved:**~~ ~~Restricted Discretionary~~ ~~**Matters of discretion:**~~ ~~1. The stability of *land* or *structures* in or on the *site* or adjacent *sites*~~ ~~2. Erosion management and sediment control.~~ ~~3. The natural landform and landscape *effects*.~~

[35] Consequential to Decision 14
[36] Decision 37, paragraph 6.5.4

	~~*the slope degree, a site-specific geotechnical assessment undertaken in accordance with engineering best practice may be required.*~~	~~4. The potential to create new or exacerbate existing *natural hazards*, impact natural drainage patterns, redirect overland flow paths or flood flows.~~ ~~5. Impacts on Ngāi Tahu cultural values, including those listed in MW-2.3.~~
~~EW-S5~~EW-S4	**Erosion, sediment, and *dust* control**[37]	
All areas	1. For the duration of *earthworks* or *land disturbance* measures must be implemented to: ~~(b)~~ (a) prevent silt or sediment from entering the *stormwater* system, overland flow paths, rail or *roads*; ~~(c)~~ (b) control erosion; and ~~(d)~~ (c)control *dust* beyond the boundaries of the *site*. 2. Protection measures utilised to comply with EW-S~~5~~4.1 above ~~shall~~ must include the following, as appropriate: (a) On-*site stormwater* management and treatment with interceptor *drains* and/ or bunds diverting *water* at toes of slopes and away from batter faces or areas of fill; (b) Soil shaping and compaction of exposed surfaces; (c) Resurfacing and revegetation of completed surfaces; (d) Planting, environmental matting, hydroseeding, drainage channels, or similar measures at an early stage in the *earthworks* construction phase; (e) Grading surfaces of cuts and fill to prevent ponding;	**Activity status where compliance is not achieved:** Restricted Discretionary **Matters of discretion:** 1. Silt and sedimentation *effects* and the *earthworks* design and construction management measures to control and retain and silt and sediment on *site*. 2. Erosion *effects* and the *earthworks* design and construction management measures to control erosion. 3. The *effects* of *dust* generation and management of adverse amenity *effects*, including from transport. 4. Erosion sediment and *dust effects* on any surrounding *site*, including *roads* and Council reticulated services. 5. Impacts on Ngāi Tahu cultural values~~, including those~~ listed in MW-~~2.3.~~ 1.2.[38]

[37] Decision 37, paragraph 6.6.3
[38] Consequential to Decision 14

	(f) Sediment traps and/or retention ponds; (g) Temporary barriers or silt *fences;* (h) Vegetated buffer strips; and/or (i) Watering and/or permanently surfacing of *roads* early in the construction phase.	
~~EW-S6~~EW-S5	***Site* Reinstatement**	
All areas	1. No later than six months from the commencement of *earthworks* and *land disturbance*: (a) the *earthworks* area ~~shall~~ must be stabilised, filled and/or recontoured in a manner consistent with the surrounding land; and (b) replanted with vegetation; or (c) sealed, paved, metalled or built over.	**Activity status where compliance is not achieved:** Restricted Discretionary **Matters of discretion:** 1. The timing and duration of the works. 2. *Effects* on ground stability. 3. *Effects* on any surrounding *site*, including visual *effects* and *dust*. 4. Visual amenity and landscape *effects*. 5. The nature of the vegetation proposed and whether species are indigenous. 6. Sediment and erosion *effects* and management. 7. The potential to create new or exacerbate existing *natural hazards*, impact natural drainage patterns, redirect overland flow paths or flood flows. 8. Impacts on Ngāi Tahu cultural values~~, including those~~ listed in MW-~~2.3.~~ 1.2[39]

[39] Consequential to Decision 14

~~EW-S7~~ EW-S6	***Accidental Discovery* Protocol**	
All areas	In the event that any of the following is discovered or disturbed, the procedure set out below must be adhered to, as well as the procedures set out in MW-~~4.1~~ 3.2 in the case of human remains/ *kōiwi*, *taonga* or *Māori* cultural artefact, and in-situ (natural state) pounamu/greenstone: • Human remains/ kōiwi • An *archaeological site* • A *Māori* cultural artefact/*taonga tūturu* • In situ (natural state) pounamu/greenstone • A protected New Zealand object as defined in the Protected Objects Act 1975 (including any fossil or sub-fossil). 1. Cease works and secure the area (a) immediately cease all works within 20m of any part of the discovery, including shutting down all earth disturbing machinery and stopping all earthmoving activities; and (b) secure the area of the discovery, including a sufficient buffer area to ensure that all *sensitive material* remains undisturbed. 2. Inform relevant authorities and parties immediately of the discovery, including: (a) the New Zealand Police if the discovery of human remains/ *kōiwi*; (b) the Council in all cases;	**Activity status where compliance is not achieved:** Non-Complying

(c) Heritage New Zealand Pouhere Taonga if the discovery is an *archaeological site*, *Māori* cultural artefact, human remains/ *kōiwi*;

(d) *Mana Whenua* if the discovery is an *archaeological site*, *Māori* cultural artefact, human remains/ *kōiwi* or in situ (natural state) pounamu/greenstone; and/or

(e) The Ministry for Culture and Heritage for protected New Zealand objects.

3. Wait for and enable an inspection of the *site*, including:

(a) wait for and enable an inspection of the *site* by the relevant authority or agency or Hokonui Rūnanga representative (where applicable).

(b) following *site* inspection and consultation with all relevant parties (including the *land* owner and person undertaking the activity ~~consent holder~~), the Council will determine the area within which work must cease and any changes to controls on *discharges* of *contaminants*.

4. Recommencement of work can begin when:

(a) work within the area determined by the Council in (2) above must not recommence until all of the following requirements, so far as relevant to the discovery, have been met:

(i) Heritage New Zealand has confirmed that an *archaeological authority* has been approved for the work or that none is required;

(ii) any required notification under the Protected Objects Act 1975 has been made to the Ministry for Culture and Heritage;

(iii) any material of scientific or educational importance must be recorded and if appropriate, recovered and preserved; and

(iv) where the *site* is of *Māori* origin and an authority from Heritage New Zealand Pouhere Taonga is not required, the Council will confirm, in partnership with *Hokonui Rūnanga* that:

- any human remains/*kōiwi* have either been retained where discovered or removed in accordance with the appropriate tikanga; and
- any agreed revisions to the planned works to be/have been made in order to address adverse *effects* on Ngāi Tahu cultural values~~, including those~~ listed in MW-~~1.3~~ 1.2.

(b) resource consent has been granted to any alteration or amendment to the *earthworks* or *land disturbance* that may be necessary to avoid the *sensitive materials* and that is not otherwise permitted under the plan or allowed by any existing resource consent; and

(c) there are no requirements in the case of *archaeological sites* that are not of *Māori* origin and are not covered by Heritage New Zealand Pouhere Taonga Act 2014.

~~*Note: Where the Heritage New Zealand Pouhere Taonga Act 2014 applies the Heritage New Zealand Pouhere Taonga Accidental Discovery Protocol manages*~~

~~*unidentified archaeological sites that may be discovered as a result of earthworks separate to District Plan requirements.*~~[40]

[40] Decision 37, paragraph 6.7.8