

8A. Earthworks {Confirmed for addition - EW cl.16¹}

¹ **EW cl.16:** As a clause 16 amendment, the Earthworks provisions have been moved from each of the management and major facility zones to a new city-wide activities section. Where there has been no change to the effect of provisions (i.e. only formatting has changed or there are inconsequential wording changes), plain text is used. Where elements of provisions have been amended in response to submissions, strikethrough and underlining is used and submitter references provided.

8A.1 Introduction {Confirmed for addition - EW cl.16¹}

¹ **EW cl.16:** As a clause 16 amendment, the Earthworks provisions have been moved from each of the management and major facility zones. Where there has been no change to the effect of provisions (i.e. only formatting has changed or there are inconsequential wording changes), plain text is used. Where elements of provisions have been amended in response to submissions, strikethrough and underlining is used and submitter references provided.

Earthworks are an essential prerequisite for the use and development of Dunedin's land resource.

If not managed adequately, earthworks have the potential to result in adverse effects on rivers, lakes, streams, wetlands, coastal waters and groundwater, visual amenity, ~~and~~ landscape, the natural character of the coast, {EW cl.16} indigenous flora and fauna, high class agricultural soils, and archaeological and cultural sites. Earthworks also have the potential to result in injury to people and damage to property, exacerbate certain existing hazards, create new hazards, and, if carried out at contaminated sites, release hazardous substances into the environment. Additionally, during construction, earthworks can cause adverse effects on local amenity and on locally, regionally and nationally important infrastructure, such as the transportation network, the reticulated water, foul sewer and stormwater networks, and the National Grid.

To manage the potential adverse effects of earthworks, mechanisms are included in the District Plan. These mechanisms include controls on the location, scale and design of earthworks, implementation of appropriate mitigation measures, and the avoidance of earthworks in sensitive locations. ~~This~~ The aim of this management approach is ~~taken with the aim of minimising~~ to minimise adverse environmental effects and ~~to preventing the effects of earthworks which have the potential to impact~~ adverse effects on {EW cl.16} the safety of people or ~~and~~ {EW cl.16} property.

~~It is also noted that~~ Other regulatory and nonregulatory methods ~~will be used to~~ also {EW cl.16} control the effects of earthworks. Certain earthworks ~~will be~~ are carried out as part of building work; these ~~will be~~ are {EW cl.16} subject to the New Zealand Building Code and may require a building consent under the Building Act 2004. Other regulatory mechanisms through which earthworks of certain types are controlled include the Heritage New Zealand Pouhere Taonga Act 2014, the Regional Plan: Waste for Otago, the Regional Plan: Water for Otago and the Otago Regional Council Flood Protection Management Bylaw 2008.

8A.2 Objectives and Policies {Confirmed for addition - EW cl.16¹}

¹ **EW cl.16:** As a clause 16 amendment, the Earthworks provisions have been moved from each of the management and major facility zones. Where there has been no change to the effect of provisions (i.e. only formatting has changed or there are inconsequential wording changes), plain text is used. Where elements of provisions have been amended in response to submissions, strikethrough and underlining is used and submitter references provided.

Objective 8A.2.1

Earthworks necessary for permitted or approved land use and development are enabled, while avoiding, or adequately mitigating, any adverse effects on:

- a. visual amenity and character;
- b. the stability of land, buildings, and structures; and
- c. surrounding properties.

Policy 8A.2.1.1	Require earthworks, and associated retaining structures, to be designed and located to avoid <u>or minimise, as far as practicable, {PO 308.497 and EW 241.21}</u> adverse effects on the stability of land, buildings, and structures by: <ul style="list-style-type: none"> a. being set back an adequate distance from property boundaries, buildings, structures and cliffs; and b. using a batter gradient that will be stable over time.
Policy 8A.2.1.2	Require earthworks and any associated retaining structures, to be designed, <u>and located and undertaken in a way that to {EW cl.16}</u> minimises, <u>as far as practicable, {PO 906.34 and 308.497}</u> adverse effects on surrounding sites and the wider area, including by: <u>-sediment run-off onto any property, or into any stormwater pipes, drains, channels or soakage systems.</u> <ul style="list-style-type: none"> a. <u>limiting the scale of earthworks that are provided for as a permitted activity; and {EW cl.16}</u> b. <u>requiring earthworks to avoid sediment run-off, including onto any property, or into any stormwater pipes, drains, channels or soakage systems. {EW cl.16}</u>
Policy 8A.2.1.3	Only allow earthworks that exceed the scale thresholds (earthworks - large scale) and any associated retaining structures, where <u>all of {EW cl.16}</u> the following effects will be avoided or, if avoidance is not possible <u>practicable {PO 908.3 and others}</u> , adequately mitigated: <ul style="list-style-type: none"> a. adverse effects on visual amenity and character; b. adverse effects on the amenity of surrounding properties, including from changes to drainage patterns; and c. adverse effects on the stability of land, buildings, and structures.
Policy 8A.2.1.4	Require earthworks ancillary to forestry to be carried out in accordance with industry best practice guidelines.

¹ **EW cl.16:** Clause a of Policy 8A.2.1.2 has been rephrased to more clearly explain the related performance standards. This does not result in a substantive change to the effect of provisions.

Rules {Confirmed for addition - EW cl.16¹}

¹ **EW cl.16:** As a clause 16 amendment, the Earthworks provisions have been moved from each of the management and major facility zones. Where there has been no change to the effect of the rule (i.e. only formatting has changed or there are inconsequential wording changes), plain text is used. Where elements of the rule have been amended in response to submissions, strikethrough and underlining is used and submitter references provided.

Rule 8A.3 Activity Status {Confirmed for addition - EW cl.16¹}

¹ **EW cl.16:** As a clause 16 amendment, the Earthworks provisions have been moved from each of the management and major facility zones. Where there has been no change to the effect of the rule (i.e. only formatting has changed or there are inconsequential wording changes), plain text is used. Where elements of the rule have been amended in response to submissions, strikethrough and underlining is used and submitter references provided.

8A.3.1 Activity status introduction

1. The activity status table in Rule 8A.3.2 shows the activity status of earthworks activities across all zones, provided any performance standards shown in the far right column are met. The activities in the earthworks category are listed in the Nested Table in Section 1.3.
2. Performance standards apply to permitted, and restricted discretionary activities.
3. If a permitted activity does not meet one or more performance standards, then the activity status of the activity ~~will become restricted discretionary, unless otherwise indicated by the relevant performance standard~~

is indicated in the relevant performance standard rule. **{PO cl.16}**.

4. If a restricted discretionary activity does not meet one or more performance standards, then the activity status remains restricted discretionary, unless otherwise indicated in the performance standard.
5. Any site development activities associated with an activity provided for in the activity status table in Rule 8A.3.2 is subject to the provisions of the relevant management zone section. **{PO cl.16}**
6. Any construction associated with an activity provided for in the activity status table in Rule 8A.3.2 is subject to the provisions in Section 4. **{PO cl.16}**

Legend

Acronym	Activity status Meaning {PO cl.16}
P	Permitted Activity
RD	Restricted Discretionary Activity
Res	Residential Zone

8A.3.2 Activity status table - earthworks activities

1.	Performance standards that apply to all earthworks activities	<ol style="list-style-type: none"> a. Archaeological sites b. Batter gradient c. Setback from property boundary, buildings, structures and cliffs d. Setback from National Grid (earthworks) e. Setback from network utilities f. Sediment control g. Removal of high class soils h. NZ Environmental Code of Practice for Plantation Forestry i. Setback from scheduled tree
Activity	Activity status	Performance standards
2. Earthworks – small scale	P	a. Earthworks - small scale thresholds
3. Earthworks – large scale	RD	a. Setback from coast and water bodies

Note 8A.3.2A - Other requirements outside the District Plan **{PHS 634.58}**

1. The National Environmental Standards for Assessing and Managing Contaminants in Soil to Protect Human Health 2011 applies to any piece of land on which an activity described in the Hazardous Activities and Industries List (HAIL) is being undertaken, has been undertaken, or is more likely than not to have been undertaken. On land of this kind, any change of use, disturbance of soil, soil sampling, removal, replacement or upgrade of fuel tanks, and any subdivision will trigger the provisions of the NES, and may require a resource consent. The requirements of the NES are site specific; the DCC Resource Consents team can provide advice on likely requirements in relation to a particular property or activity. Information is also available from the Ministry for the Environment at www.mfe.govt.nz/land/nas-assessing-and-managing-contaminants-soil-protect-human-health/about-nas. **{PHS 634.58}**

2. The Otago Regional Plan: Water manages earthworks undertaken on the bed of any lake or river, and earthworks associated with drilling or bore construction (excluding the deposition of fill resulting from these activities). {PO cl.16}
3. The Otago Regional Plan: Waste manages discharges from offal pits, farm landfills and greenwaste landfills, and excavation and use of composting pits, silage pits and silage stacks. {PO cl.16}

Rule 8A.4 Notification {Confirmed for addition - EW cl.16¹}

¹ **EW cl.16:** As a clause 16 amendment, the Earthworks provisions have been moved from each of the management and major facility zones. Where there has been no change to the effect of the rule (i.e. only formatting has changed or there are inconsequential wording changes), plain text is used. Where elements of the rule have been amended in response to submissions, strikethrough and underlining is used and submitter references provided.

1. With respect to resource consent applications for the following activities, Manawhenua will be considered an affected person in accordance with section 95B of the RMA where their written approval is not provided:
 - a. large scale earthworks in a wāhi tūpuna mapped area where the activity is identified as a principal threat to values in Appendix A4; and
 - b. activities that contravene the sediment control performance standard in a wāhi tūpuna mapped area.
2. All other activities are subject to the normal tests for notification in accordance with sections 95A-95G of the RMA. {EW cl.16}

Rule 8A.5 Earthworks Performance Standards {Confirmed for addition - EW cl.16¹}

¹ **EW cl.16:** As a clause 16 amendment, the Earthworks provisions have been moved from each of the management and major facility zones. Where there has been no change to the effect of the rule (i.e. only formatting has changed or there are inconsequential wording changes), plain text is used. Where elements of the rule have been amended in response to submissions, strikethrough and underlining is used and submitter references provided.

8A.5.1 Earthworks - small scale thresholds {Confirmed for addition - EW cl.16¹}

¹ **EW cl.16:** As a clause 16 amendment, the Earthworks provisions have been moved from each of the management and major facility zones. Where there has been no change to the effect of the rule (i.e. only formatting has changed or there are inconsequential wording changes), plain text is used. Where elements of the rule have been amended in response to submissions, strikethrough and underlining is used and submitter references provided.

8A.5.1.1 General {EW cl.16¹}

The following earthworks are always considered earthworks - small scale:

- a. post holes for the erection of fences; {EW cl.16¹}
- b. post holes for permitted or approved buildings or signs; {EW cl.16¹}
- c. driving of piles for building foundations; {EW cl.16¹}
- d. earthworks in the Port Zone; {EW 737.30²}
- e. earthworks in the rural or rural residential zones, outside flood hazard overlay zones, associated with burying material infected by unwanted organisms as declared by the Ministry for Primary Industries' Chief Technical Officer or an emergency declared by the Minister for Primary Industries under the Biosecurity Act 1993; {EW 1090.2}
- f. earthworks subject to an approved building consent, except in the rural or rural residential zones or where they are located more than 1.8m from the building; {EW 308.374}
- g. earthworks for the erection of new fences {EW 388.4} or the construction of walking tracks or vehicle tracks, where the fence or track is associated with a permitted land use or city-wide activity, provided that the

earthworks: {EW 388.4 and 911.1}

- i. do not result in a change in finished ground level that exceeds 1m; and **{EW 388.4 and 911.1}**
- ii. do not exceed 2m in width if located in an ASBV or ONF, ONCC, HNCC or NCC overlay zone, or 3m in width outside these areas. **{EW 388.4 and 911.1}**
- h. earthworks ancillary to the operation, repair, and maintenance of the roading network; and
- i. earthworks ancillary to forestry.

¹ **EW cl.16:** Under notified provisions, the definition of 'earthworks – small scale' indicated that the types of earthworks listed at Rule 8A.5.1.1.a, b and c were always treated as 'small scale'. Provisions have been reformatting to transfer that content from the definition to this rule. In addition, the types of earthworks listed at Rule 8A.5.1.1.h and i were exempt from all scale thresholds under notified management zone provisions (e.g. notified Rule 16.6.1.1.f). This content has also been transferred to this rule. These changes do not alter the effect of provisions.

² **EW 737.30:** Under notified Rule 30.6.1.1.a.iii.1, earthworks in the Port Zone were only exempt from the 'maximum area' element of the small scale threshold. The exemption has been expanded, in response to EW 737.30, so that earthworks in the Port Zone are also exempt from the other elements of the scale threshold – i.e. 'maximum change in finished ground level' and 'maximum volume of combined cut and fill'.

8A.5.1.2 Scale Thresholds

- a. All earthworks not listed in Rule 8A.5.1.1 must not exceed the scale thresholds in Rule 8A.5.1.3, Rule 8A.5.1.4 or Rule 8A.5.1.5 to be considered earthworks - small scale. Earthworks that exceed these thresholds are treated as earthworks – large scale.
- b. Where earthworks are located in one or more of the overlay zones or mapped areas indicated in Rule 8A.5.1.3, Rule 8A.5.1.4 or Rule 8A.5.1.5, the most restrictive scale threshold applies for the purposes of determining activity status.
- c. Resource consents will be assessed against all scale thresholds that are contravened.

8A.5.1.3 Maximum change in finished ground level {EW 634.26}

- a. The maximum change in finished **{EW 634.26}** ground level to be considered earthworks – small scale is as follows:

Zone/Overlay		Maximum change in <u>finished</u> {EW 634.26} ground level
i.	Residential, CMU, Industrial, Recreation, Dunedin Botanic Garden, Dunedin Hospital, Edgar Centre, Mercy Hospital, Moana Pool, Otago Museum, School, Stadium, Campus and Wakari Hospital zones	1.5m
ii.	Rural, Rural Residential, Ashburn Clinic, Dunedin International Airport, Invermay and Hercus, and Taieri Aerodrome zones	2.0m
iii.	GPMA	1.0m Maximum depth of 250mm (except as required for the foundation of buildings)
iv.	ONF, UGMA, UBMA {NatEnv 958.60} , SHS, ONL, ONCC, HNCC	1.0m
v.	SNL, NCC	1.5m

Zone/Overlay		Maximum change in finished {EW 634.26} ground level
vi.	1. In an ASBV; 2. Within 20m of a water body ¹ or MHWS in the Rural, and Invermay and Hercus Zones; or 3. Within 5m of a water body ¹ or MHWS in all other zones.	0.5m
vii.	Haz1 (flood) & Haz1A {NH 908.37} (flood) Haz2 (flood) & Haz3 (flood, alluvial fan) {NH 908.57}	N/A
viii.	Haz1 (land instability) & Haz2 (land instability)	1.0m

- b. The following activities are exempt from Rule 8A.5.1.3.a.ii:
- Earthworks in the rural zones, as part of a farming activity for the construction of offal pits, silage pits and farm landfills.

¹ See Rule 10.3.3.7 for how setbacks from waterbodies will be measured.

8A.5.1.4 Maximum Area

- a. The maximum area of earthworks to be considered earthworks – small scale is as follows:

Zone/Overlay		Maximum Area
i.	GPMA, ONF, UGMA UBMA {NatEnv 958.60}, SHS	50m ²
ii.	ONL, ONCC, HNCC	100m ²
iii.	SNL, NCC	200m ²
iv.	1. In an ASBV; 2. Within 20m of a water body ¹ or MHWS in the Rural, and Invermay and Hercus Zones; or 3. Within 5m of a water body ¹ or MHWS in all other zones.	25m ²

- b. In zones other than rural zones, the maximum area stated in Rule 8A.5.1.4.a is the cumulative total area of earthworks undertaken on any site in any two calendar-year period.
- c. In rural zones, more than one earthworks activity up to the maximum area stated in Rule 8A.5.1.4.a may be undertaken provided that each earthworks activity is located at least 1km from any other earthworks taking place on the same site within the same two calendar year period.
- d. The following activities are exempt from this standard:
- Earthworks ancillary to network utility activities.

¹ See Rule 10.3.3.7 for how setbacks from waterbodies will be measured.

8A.5.1.5 Maximum volume of combined cut and fill

- a. The maximum volume of combined cut and fill to be considered earthworks – small scale is as follows:

Location	Slope
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		Less than or equal to 12°	Greater than 12° but less than or equal to 15°	Greater than 15° but less than or equal to 20°	Greater than 20° but less than or equal to 26°	Greater than 26° but less than or equal to 35°	Greater than 35°
i.	All zones	30m ³ per 100m ² of site	25m ³ per 100m ² of site	15m ³ per 100m ² of site	10m ³ per 100m ² of site	0m ³ fill, 5m ³ cut per 100m ² of site	0m ³
ii.	GPMA, ONF, UGMA, UBMA, { <i>NatEnv 958.60</i> }, SHS	10m ³	10m ³	10m ³	10m ³	0m ³ fill, 10m ³ cut	0m ³
iii.	ONL, ONCC, HNCC	20m ³	20m ³	20m ³	20m ³	0m ³ fill, 20m ³ cut	0m ³
iv.	SNL, NCC	50m ³	50m ³	50m ³	50m ³	0m ³ fill, 50m ³ cut	0m ³
v.	1. In an ASBV; 2. Within 20m of a water body or MHWS in the Rural, and Invermay and Hercus Zones; or 3. Within 5m of a water body or MHWS in all other zones.	1m ³	1m ³	1m ³	1m ³	0m ³ fill, 1m ³ cut	0m ³
vi.	Haz1 (flood) & Haz1A { <i>NH 908.37</i> } (flood)	0m ³ fill	0m ³ fill	0m ³ fill	0m ³ fill	0m ³ fill	0m ³
vii.	Haz2 (flood) & Haz3 (flood, <u>alluvial fan</u>) { <i>NH 908.57</i> }	20m ³ fill	20m ³ fill	20m ³ fill	20m ³ fill	0m ³ fill	0m ³
viii.	Haz1 (land instability)	10m ³	10m ³	10m ³	10m ³	0m ³ fill, 10m ³ cut	0m ³
ix.	Haz2 (land instability)	20m ³	20m ³	20m ³	20m ³	0m ³ fill, 20m ³ cut	0m ³
x.	Swale mapped area Dune system mapped area	0m ³	0m ³	0m ³	0m ³	0m ³	0m ³

- b. The maximum volume of combined cut and fill set out in Rule 8A.5.1.5.a is the maximum cumulative volume on any site within any two calendar year period, except that in rural zones:
- more than one earthworks activity up to the maximum volume stated in Rule 8A.5.1.5.a.i, vii, viii or ix may be undertaken provided that each earthworks activity is located at least 4km ~~400m~~ {*EW 312.13*} from any other earthworks taking place on the same site within the same two calendar year period; and
 - more than one earthworks activity up to the maximum volume stated in Rule 8A.5.1.5.a.ii, iii, iv or v may be undertaken provided that each earthworks activity is located at least 1km from any other earthworks taking place on the same site within the same two calendar year period.

- c. Where the part of the site in which the earthworks are located is in more than one slope category, the most restrictive volume threshold applies.
- d. The following activities are exempt from this standard:
 - i. Earthworks ancillary to network utility activities.
 - ii. Earthworks in the rural zones as part of a farming activity for the construction of offal pits, silage pits and farm landfills (exempt from Rule 8A.5.1.5.a.i only).

8A.5.2 Archaeological sites {Confirmed for addition - EW cl.16¹}

¹ **EW cl.16:** As a clause 16 amendment, the Earthworks provisions have been moved from each of the management and major facility zones. Where there has been no change to the effect of the rule (i.e. only formatting has changed or there are inconsequential wording changes), plain text is used. Where elements of the rule have been amended in response to submissions, strikethrough and underlining is used and submitter references provided.

Earthworks must comply with Rule 13.3.3.

8A.5.3 Batter gradient {Confirmed for addition - EW cl.16¹}

¹ **EW cl.16:** As a clause 16 amendment, the Earthworks provisions have been moved from each of the management and major facility zones. Where there has been no change to the effect of the rule (i.e. only formatting has changed or there are inconsequential wording changes), plain text is used. Where elements of the rule have been amended in response to submissions, strikethrough and underlining is used and submitter references provided.

- 1. Earthworks must:
 - a. have a maximum cut batter gradient of 1:1 (i.e. rising 1m over a 1m distance); and
 - b. have a maximum fill batter gradient of 2:1 (i.e. rising 1m over a 2m distance).
- 2. Earthworks ancillary to forestry are exempt from the batter gradient performance standard.
- 3. Activities that contravene this performance standard are restricted discretionary activities.~~{PO cl.16}~~

8A.5.4 Setback from property boundary, buildings, structures and cliffs {Confirmed for addition - EW cl.16¹}

¹ **EW cl.16:** As a clause 16 amendment, the Earthworks provisions have been moved from each of the management and major facility zones. Where there has been no change to the effect of the rule (i.e. only formatting has changed or there are inconsequential wording changes), plain text is used. Where elements of the rule have been amended in response to submissions, strikethrough and underlining is used and submitter references provided.

- 1. Earthworks over 600mm in height or depth must be set back from: property boundaries, foundations of buildings, structures greater than 10m² footprint ~~{PO cl.16¹}~~, and the top or toe of any cliff, the following minimum distances:
 - a. Earthworks not supported by retaining walls:
 - i. a distance at least equal to the maximum height of the fill, as measured from the toe of the fill (see Figure 8A.5A);
 - ii. a distance at least equal to 1.5 times the maximum depth of the cut, plus 300mm, as measured from the toe of the cut (see Figure 8A.5A); and
 - iii. 300mm, as measured from the crest of any cut (see Figure 8A.5A).
 - b. Retaining walls supporting a cut or fill must be set back a distance at least equal to the height of the retaining walls (see Figure 8A.5B), except:
 - i. retaining walls supporting a cut that have been granted building consent are exempt from this standard.
 - c. Earthworks ancillary to network utility activities, earthworks ancillary to the operation, repair, and

maintenance of the roading network and earthworks ancillary to forestry are exempt from the setback from property boundary, buildings, structures and cliffs performance standard.

2. Activities that contravene this performance standard are restricted discretionary activities.**{PO cl.16}**

¹ **PO cl.16:** Footprint is included in the rule to improve plan clarity as a minor and inconsequential amendment.

Figure 8A.5A: Unsupported cut and fill (elevation view)

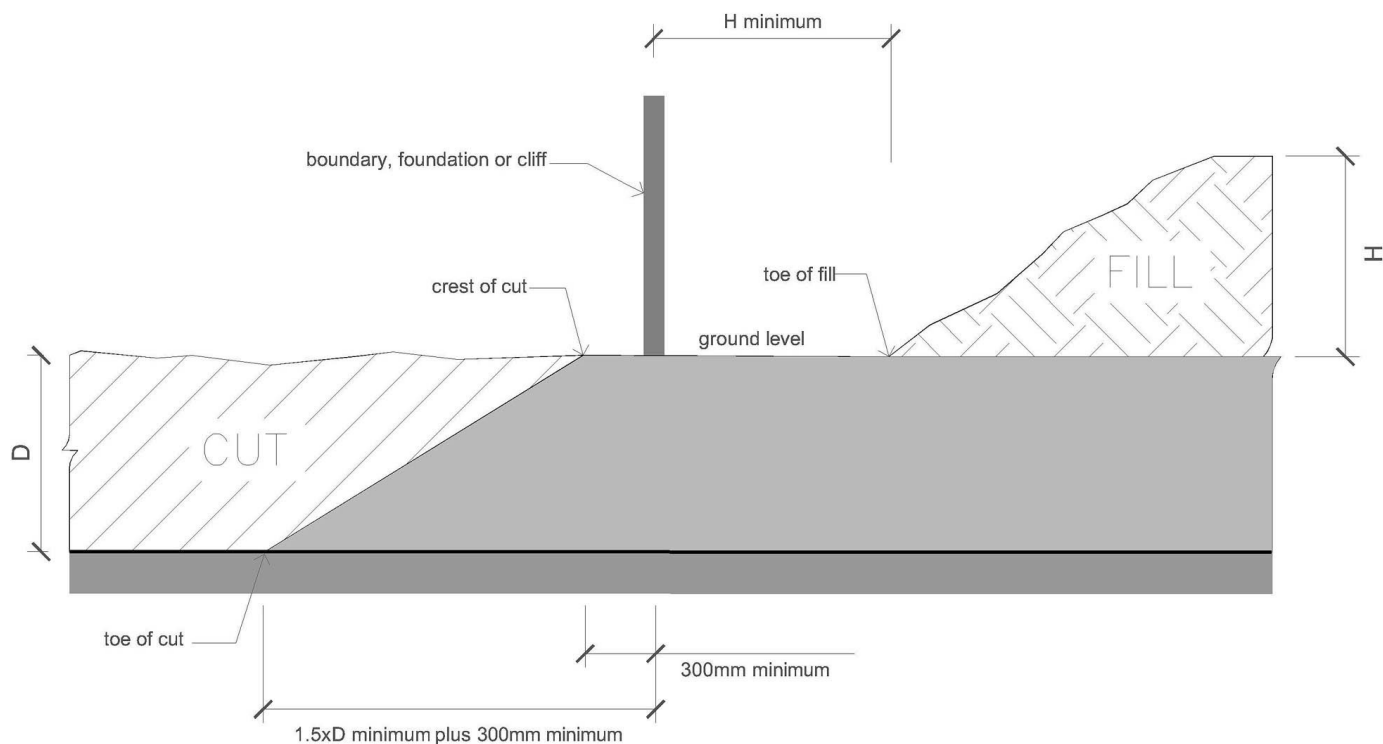
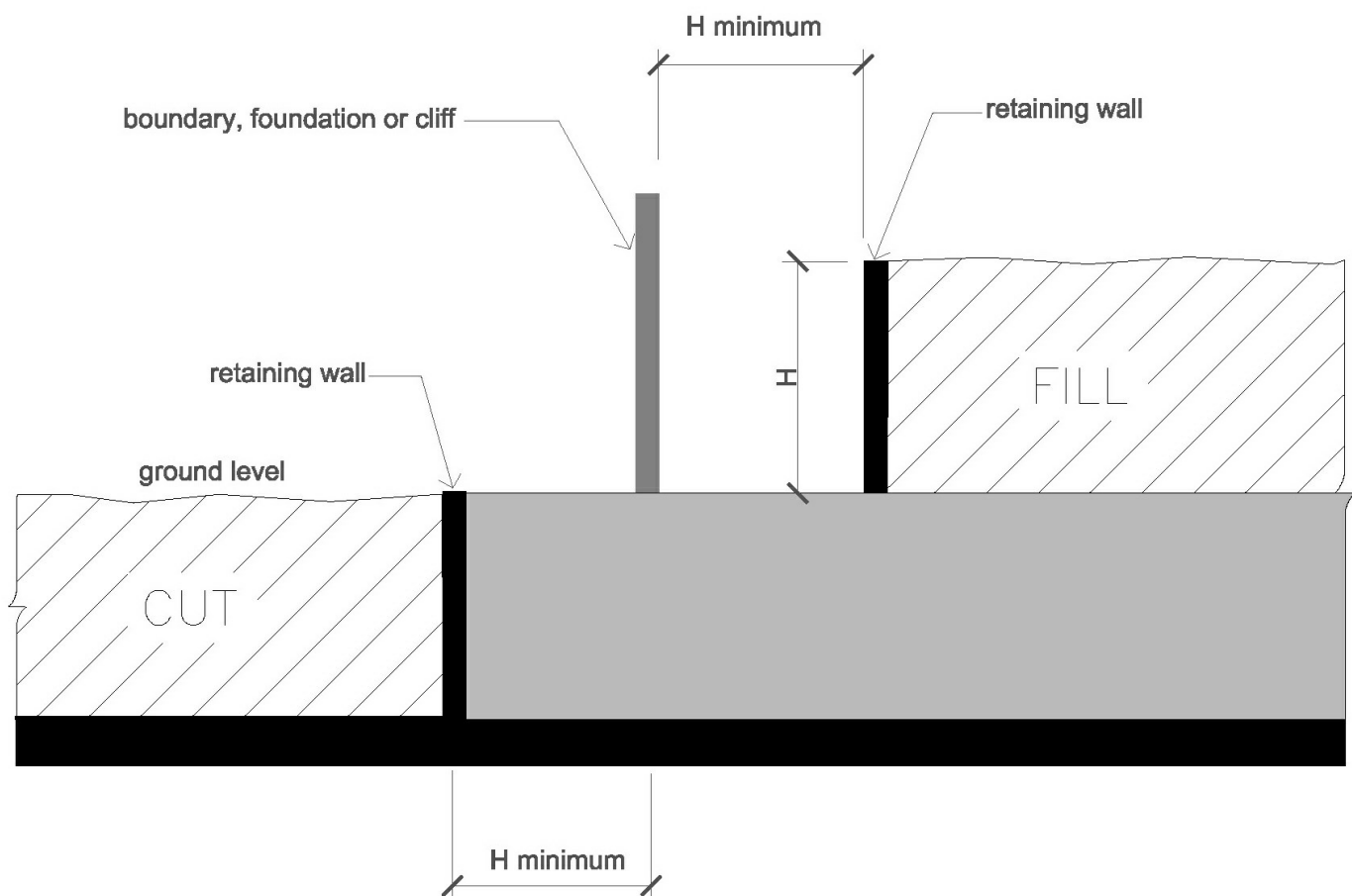


Figure 8A.5B Cut and fill supported by retaining walls (elevation view)



8A.5.5 Setback from National Grid (earthworks) {Confirmed for addition - EW cl.16¹}

¹ **EW cl.16:** As a clause 16 amendment, the Earthworks provisions have been moved from each of the management and major facility zones. Where there has been no change to the effect of the rule (i.e. only formatting has changed or there are inconsequential wording changes), plain text is used. Where elements of the rule have been amended in response to submissions, strikethrough and underlining is used and submitter references provided.

Earthworks must comply with Rule 5.6.1.2.

8A.5.6 Setback from network utilities {Confirmed for addition - EW cl.16¹}

¹ **EW cl.16:** As a clause 16 amendment, the Earthworks provisions have been moved from each of the management and major facility zones. Where there has been no change to the effect of the rule (i.e. only formatting has changed or there are inconsequential wording changes), plain text is used. Where elements of the rule have been amended in response to submissions, strikethrough and underlining is used and submitter references provided.

Earthworks must comply with Rule 5.6.2.

8A.5.7 Sediment control {Confirmed for addition - EW cl.16¹}

¹ **EW cl.16:** As a clause 16 amendment, the Earthworks provisions have been moved from each of the management and major facility zones. Where there has been no change to the effect of the rule (i.e. only formatting has changed or there are inconsequential wording changes), plain text is used. Where elements of the rule have been amended in response to submissions, strikethrough and underlining is used and submitter references provided.

1. Earthworks must be undertaken using best practice sediment control management to in a way that prevents {NatEnv 908.27} sediment entering water bodies, stormwater networks, or the coastal marine area. {EW 1071.104} or going across property boundaries.

2. Activities that contravene this performance standard are restricted discretionary activities.{PO cl.16}

Note 8A.5.7A - Other requirements outside of the District Plan {NatEnv 908.27}

1. Discharges of sediment, or of water containing sediment, may require resource consent under the Regional Plan: Water for Otago. {NatEnv 908.27}
2. Discharges of sediment that cross property boundaries may be contrary to the common law principle of natural servitude. {NatEnv 908.27}

8A.5.8 Removal of high class soils {Confirmed for addition - EW cl.16¹}

¹ **EW cl.16:** As a clause 16 amendment, the Earthworks provisions have been moved from each of the management and major facility zones. Where there has been no change to the effect of the rule (i.e. only formatting has changed or there are inconsequential wording changes), plain text is used. Where elements of the rule have been amended in response to submissions, strikethrough and underlining is used and submitter references provided.

1. Earthworks must not remove topsoil or subsoil that is located within the **high class soils mapped area** from the site.
2. Activities that contravene this performance standard are restricted discretionary activities.{PO cl.16}

8A.5.9 NZ Environmental Code of Practice for Plantation Forestry {Confirmed for addition - EW cl.16¹}

¹ **EW cl.16:** As a clause 16 amendment, the Earthworks provisions have been moved from each of the management and major facility zones. Where there has been no change to the effect of the rule (i.e. only formatting has changed or there are inconsequential wording changes), plain text is used. Where elements of the rule have been amended in response to submissions, strikethrough and underlining is used and submitter references provided.

1. Earthworks ancillary to forestry must be in accordance with the New Zealand Environmental Code of Practice for Plantation Forestry 2007.
2. Activities that contravene this performance standard are restricted discretionary activities.{PO cl.16}

8A.5.10 Setback from coast and water bodies {Confirmed for addition - EW cl.16¹}

¹ **EW cl.16:** As a clause 16 amendment, the Earthworks provisions have been moved from each of the management and major facility zones. Where there has been no change to the effect of the rule (i.e. only formatting has changed or there are inconsequential wording changes), plain text is used. Where elements of the rule have been amended in response to submissions, strikethrough and underlining is used and submitter references provided.

Earthworks – large scale must comply with Rule 10.3.3

8A.5.11 Setback from scheduled tree {Confirmed for addition - EW cl.16¹}

¹ **EW cl.16:** As a clause 16 amendment, the Earthworks provisions have been moved from each of the management and major facility zones. Where there has been no change to the effect of the rule (i.e. only formatting has changed or there are inconsequential wording changes), plain text is used. Where elements of the rule have been amended in response to submissions, strikethrough and underlining is used and submitter references provided.

All earthworks must comply with Rule 7.5.2

Rule 8A.6 Assessment of Restricted Discretionary Activities (Performance Standard Contraventions) {Confirmed for addition - EW cl.16¹}

¹ **EW cl.16:** As a clause 16 amendment, the Earthworks provisions have been moved from each of the management and major facilities zones. Where there has been no change to the effect of the rule (i.e. only formatting has changed or there are inconsequential wording changes), plain text is used. Where elements of the rule have been amended in

response to submissions, strikethrough and underlining is used and submitter references provided.

Rule 8A.6.1 Introduction

1. Restricted discretionary activities will be assessed in accordance with section 104 and 104C of the RMA, meaning only those matters to which Council has restricted its discretion will be considered, and Council may grant or refuse the application, and, if granted, may impose conditions with respect to matters over which it has restricted its discretion.
2. Rule 8A.6.2:
 - a. lists the matters Council will restrict its discretion to; and
 - b. provides guidance on how consent applications will be assessed, including:
 - i. relevant objectives and policies, with respect to s104(1)(b)(vi);
 - ii. potential circumstances that may support a consent application;
 - iii. general assessment guidance; and
 - iv. conditions that may be imposed.

8A.6.2 Assessment of all performance standard contraventions

Performance standard	Guidance on the assessment of resource consents
1. All performance standard contraventions	<p><i>Potential circumstances that may support a consent application include:</i></p> <ol style="list-style-type: none"> i. The degree of non-compliance with the performance standard is minor. <p><i>General assessment guidance:</i></p> <ol style="list-style-type: none"> ii. Where more than one standard is contravened, the combined effects of the contraventions should be considered. iii. In assessing performance standard contraventions, consideration will be given to all relevant assessment guidance in the underlying zone.

8A.6.3 Assessment of performance standard contraventions

Performance standard	Matters of discretion	Guidance on the assessment of resource consents
1. Batter gradient	a. Effects on the stability of land, buildings and structures	<p><i>Relevant objectives and policies:</i></p> <ol style="list-style-type: none"> i. Objective 8A.2.1 ii. Earthworks and associated retaining structures are designed and located to avoid or minimise, <u>as far as practicable</u>, {PO 308.497 and EW 241.21} adverse effects on the stability of land, buildings, and structures by using a batter gradient that will be stable over time (Policy 8A.2.1.1.b).
2. Setback from property boundary, buildings, structures and cliffs	a. Effects on the stability of land, buildings and structures	<p><i>Relevant objectives and policies:</i></p> <ol style="list-style-type: none"> i. Objective 8A.2.1 ii. Earthworks and associated retaining structures are designed and located to avoid <u>or minimise, as far as practicable</u>, {PO 308.497 and EW 241.21} adverse effects on the stability of land, buildings, and structures by being set back an adequate distance from property boundaries, buildings and cliffs (Policy 8A.2.1.1.a).

8A.6.3 Assessment of performance standard contraventions

Performance standard	Matters of discretion	Guidance on the assessment of resource consents
3. Sediment control	a. Effects on surrounding sites	<i>Relevant objectives and policies:</i> i. Objective 8A.2.1 ii. Earthworks and any associated retaining structures are designed, and located and undertaken in a way that to minimises, as far as practicable {PO 906.34 and 308.497} adverse effects on surrounding sites and the wider area by managing earthworks to avoid sediment run-off, including on to any property, or into any stormwater pipes, drains, channels or soakage systems {PO 906.34 and 308.497} (Policy 8A.2.1.2)
	b. Effects on biodiversity values {NatEnv 958.60} and natural character values of riparian margins and coast	See Rule 10.4
	c. Effects on the efficiency and/or {EW cl.16} affordability of infrastructure	See Rule 9.4
4. NZ Environmental Code of Practice for Plantation Forestry	a. Degree of compliance with New Zealand Code of Practice for Plantation Forestry	<i>Relevant objectives and policies:</i> i. Objective 8A.2.1 ii. Earthworks ancillary to forestry are carried out in accordance with industry best practice guidelines (Policy 8A.2.1.4).
5. Setback from coast and water bodies	a. Effects on biodiversity values {NatEnv 958.60} and natural character values of riparian margins and the coast	See Rule 10.4
	b. Effects on public access	
	c. Risk from natural hazards	See Rule 11.4
6. Setback from scheduled tree	a. Effects on long term health of tree	See Rule 7.6

8A.6.3 Assessment of performance standard contraventions

Performance standard	Matters of discretion	Guidance on the assessment of resource consents
7. Setback from National Grid (earthworks)	a. Effects on health and safety b. Effects on efficient and effective operation of network utilities	See Rule 5.7
8. Setback from network utilities	a. Effects on health and safety b. Effects on efficient and effective operation of network utilities	See Rule 5.7

8A.6.4 Assessment of restricted discretionary performance standard contraventions in an overlay zone, mapped area or affecting a scheduled item

Activity	Matters of discretion	Guidance on the assessment of resource consents
1. In a high class soils mapped area : <ul style="list-style-type: none"> removal of high class soils 	a. Maintenance of high class soils resource	<i>Relevant objectives and policies:</i> <ol style="list-style-type: none"> Objective 16.2.4 and Objective 17.2.4 Earthworks in a high class soils mapped area retain soils on the site (policies 16.2.4.1 and 17.2.4.1). <i>Potential circumstances that may support a consent application include:</i> <ol style="list-style-type: none"> The development will involve productive rural activity <u>activities</u> {PO cl.16}. The site design will minimise the effect of the activity on the high class soils contained on the site. The soils are being removed to enhance the productivity of another site.
2. In a wāhi tūpuna mapped area <ul style="list-style-type: none"> Sediment control 	d. Effects on cultural values of <u>Manawhenua</u> {MW 1071.107}	See Rule 14.3 {MW 1071.107}

Rule 8A.7 Assessment of Restricted Discretionary Activities {Confirmed for addition - EW cl.16¹}

¹ **EW cl.16:** As a clause 16 amendment, the Earthworks provisions have been moved from each of the management and major facilities zones. Where there has been no change to the effect of the rule (i.e. only formatting has changed or there are inconsequential wording changes), plain text is used. Where elements of the rule have been amended in response to submissions, strikethrough and underlining is used and submitter references provided.

Rule 8A.7.1 Introduction

1. Restricted discretionary activities will be assessed in accordance with section 104 and 104C of the RMA, meaning only those matters to which Council has restricted its discretion will be considered, and Council may grant or refuse the application, and, if granted, may impose conditions with respect to matters over which it has restricted its discretion.
2. Rules 8A.7.2 and 8A.7.3:
 - a. lists the matters Council will restrict its discretion to; and
 - b. provides guidance on how a consent application will be assessed, including:
 - i. relevant objectives and policies, with respect to s104(1)(b)(vi);
 - ii. potential circumstances that may support a consent application;
 - iii. general assessment guidance; and
 - iv. conditions that may be imposed.
3. Where a restricted discretionary activity does not meet a performance standard the following occurs:
 - a. if the contravention of the performance standard defaults to **restricted discretionary** ~~(which is the case, unless otherwise indicated in the performance standard)~~ **{PO cl.16}** then:
 - i. the activity, as a whole, will be treated as **restricted discretionary**;
 - ii. the matters of discretion are expanded to include the areas of non-compliance with the performance standard;
 - iii. the performance standard contravention will be assessed as indicated in Section 8A.6; and
 - iv. the matters of discretion in this section will be assessed as indicated.
 - b. if the contravention of the performance standard defaults to **discretionary** then:
 - i. the activity, as a whole, will be treated as **discretionary**;
 - ii. the performance standard contravention will be assessed; and
 - iii. the assessment guidance in this section will also be considered.
 - c. if the contravention of the performance standard defaults to **non-complying** then:
 - i. the activity, as a whole, will be **non-complying**;
 - ii. the performance standard contravention will be assessed as indicated in Section 8A.8; and
 - iii. the assessment guidance in this section will also be considered.

8A.7.2 Assessment of restricted discretionary earthworks activities

Activity	Matters of discretion	Guidance on the assessment of resource consents
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1.	Earthworks - large scale (<u>all zones</u>) {NatEnv 958.100}	<p>a. Effects on visual amenity</p> <p>b. Effects on the {EW cl.16} amenity of surrounding properties</p>	<p><i>Relevant objectives and policies:</i></p> <ul style="list-style-type: none"> i. Objective 8A.2.1 ii. Adverse effects on visual amenity and character will be avoided or, if avoidance is not possible <u>practicable</u>. {PO 908.3 and others} adequately mitigated (Policy 8A.2.1.3.a). iii. Adverse effects on the amenity of surrounding properties, including from changes to drainage patterns, will be avoided or, if avoidance is not possible, <u>practicable</u>. {PO 908.3 and others} adequately mitigated (Policy 8A.2.1.3.b). <p><i>Potential circumstances that may support a consent application include:</i></p> <ul style="list-style-type: none"> iv. There is no, or only minimal, alteration to the natural landform. v. Any cut or fill will be restored or treated to resemble natural landforms. vi. The earthworks will not remove or affect existing vegetation or landscaping. <p><i>Conditions that may be imposed include:</i></p> <ul style="list-style-type: none"> vii. Measures to minimise visual effects, e.g. requirements for revegetation and/or landscaping. viii. Maximum slopes of cut and fill batters. ix. Measures to divert surface water and rain away from, or prevent from discharging over, batter faces and other areas of bare earth. x. Measures to ensure there are no adverse effects from changes to drainage patterns on surrounding properties. xi. Requirement to de-compact soils; to take other remedial action to ensure the natural absorption capacity of the soils is not reduced; or to use other mitigation measures to ensure the overall absorption of rain water on-site is not diminished. <p><i>General assessment guidance: {EW 360.134}</i></p> <ul style="list-style-type: none"> xii. <u>For earthworks in the rural zones, Council will consider the effects on the values specified in Objective 16.2.3. and the effects on the rural character values identified in Appendix A7. {EW 360.134}</u>
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8A.7.2 Assessment of restricted discretionary earthworks activities

Activity		Matters of discretion	Guidance on the assessment of resource consents
		c. Effects on the stability of land, buildings, and structures	<p><i>Relevant objectives and policies:</i></p> <ul style="list-style-type: none"> i. Objective 8A.2.1 ii. Adverse effects on the stability of land, buildings, and structures will be avoided or, if avoidance is not possible, practicable, {PO 908.3 and others} adequately mitigated (Policy 8A.2.1.3.c). <p><i>Potential circumstances that may support a consent application:</i></p> <ul style="list-style-type: none"> iii. A geotechnical report confirms the existing ground is suitably stable for the proposed works, and proposed works will not create instability risks for surrounding land, buildings, or structures (see Special Information Requirements - Rule 8A.9.1). iv. Excavation, fill and retaining structures will be designed, and the work undertaken, in accordance with best practice engineering standards. <p><i>Conditions that may be imposed include:</i></p> <ul style="list-style-type: none"> v. Maximum slopes of cut and fill batters. vi. Time limits for retaining wall installation to avoid leaving a cut slope unsupported for an extended period. vii. Temporary shoring requirements to maintain stability before a wall is constructed. viii. Supervision and monitoring requirements for retaining wall construction and standard earthworks construction.
A. {NatEnv 958.100}	<u>Earthworks - large scale (rural zones only)</u>	<u>a. Effects on biodiversity values</u>	<u>See Rule 10.5</u>

8A.7.2 Assessment of restricted discretionary earthworks activities

Activity		Matters of discretion	Guidance on the assessment of resource consents
2.	<p>Earthworks - large scale that exceed scale thresholds within:</p> <ul style="list-style-type: none"> • 20m of a water body or MHWS in rural zones or the Invermay and Hercus Zone {EW cl.16} • 5m of a water body or MHWS in all other zones) {EW cl.16} 	<p>a. Effects on biodiversity <u>values</u> {NatEnv 958.60} and natural character of riparian margins and the coast</p> <p>b. Effects on public access</p>	See Rule 10.5

8A.7.3 Assessment of restricted discretionary activities in an overlay zone, mapped area or affecting a scheduled item

Activity		Matters of discretion	Guidance on the assessment of resource consents
1.	<p>In the ONF, ONL or SNL overlay zones:</p> <ul style="list-style-type: none"> • Earthworks - large scale (that exceed scale thresholds for an ONF, ONL or SNL) 	a. Effects on landscape values	See Rule 10.5
2.	<p>In the ONCC, HNCC or NCC overlay zones:</p> <ul style="list-style-type: none"> • Earthworks - large scale (that exceed scale thresholds for an ONCC, HNCC or NCC) 	a. Effects on natural character of the coast	See Rule 10.5
3.	<p>In an scheduled ASCV ASBV {NatEnv 958.60}:</p> <ul style="list-style-type: none"> • Earthworks - large scale (that exceed scale thresholds for a Scheduled ASCV ASBV) {NatEnv 958.60} 	a. Effects on biodiversity <u>values</u> {NatEnv 958.60}	See Rule 10.5
4.	<p>In a wāhi tūpuna mapped area where activity is identified as a threat:</p> <ul style="list-style-type: none"> • Earthworks - large scale that exceed any threshold 	a. Effects on cultural values of Manawhenua	See Rule 14.4
5.	<p>In a hazard overlay zone:</p> <ul style="list-style-type: none"> • Earthworks - large scale (that exceed the scale threshold for a hazard overlay zone or swale or dune system mapped area) 	a. Risk from natural hazards	See Rule 11.5

8A.7.3 Assessment of restricted discretionary activities in an overlay zone, mapped area or affecting a scheduled item

Activity		Matters of discretion	Guidance on the assessment of resource consents
6.	In a groundwater protection mapped area (GPMA) : • Earthworks - large scale (that exceed scale thresholds for a GPMA)	a. Effects on health and safety	See Rule 9.5
7. {NH cl.16 ¹ }	In a geologically sensitive mapped area (GSA) : • Earthworks - large scale (that exceed underlying zone scale thresholds)	a. Risk from natural hazards	See Rule 11.5
8.	In a UCMA UBMA : {NatEnv 958.60} • Earthworks - large scale (that exceed the scale thresholds for a UCMA UBMA) {NatEnv 958.60}	a. Effects on biodiversity values {NatEnv 958.60}	See Rule 10.5
9.	On a scheduled heritage site : • Earthworks - large scale (that exceed the scale thresholds for a SHS)	a. Effects on heritage values	See Rule 13.6

¹ **NH cl.16**: Geologically sensitive areas are not part of the Plan, and are included in the data map for information purposes only. Reference to them in assessment rules is therefore incorrect and has been removed under cl.16. There is no substantive change to the provisions.

Rule 8A.8 Assessment of Non-complying Activities {Confirmed for addition - EW cl.16¹}

¹ **EW cl.16**: As a clause 16 amendment, the Earthworks provisions have been moved from each of the management and major facilities zones. Where there has been no change to the effect of the rule (i.e. only formatting has changed or there are inconsequential wording changes), plain text is used. Where elements of the rule have been amended in response to submissions, strikethrough and underlining is used and submitter references provided.

Rule 8A.8.1 Introduction

- Non-complying activities will be assessed in accordance with section 104, 104B and 104D of the RMA meaning Council may grant or refuse the application, and, if granted, may impose conditions.
- Rule 8A.8.2 provides guidance on how a consent application for the listed non-complying activities will be assessed, including:
 - relevant objectives and policies that will be considered as a priority with respect to s104(1)(b)(vi); and
 - general assessment guidance, including any effects that will be considered as a priority.

8A.8.2 Assessment of non-complying activities

Activity	Guidance on the assessment of resource consents
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<p>1. All non-complying activities <u>that are linked to Section 8A.8 {PO cl.16}</u></p>	<p><i>Relevant objectives and policies (priority considerations):</i></p> <p>a. Objective 8A.2.1</p> <p><i>General assessment guidance:</i></p> <p>b. In assessing the significance of effects, consideration will be given to:</p> <ul style="list-style-type: none"> i. short to long term effects, including effects in combination with other activities; ii. the potential for cumulative adverse effects arising from similar activities occurring as a result of a precedent being set by the grant of resource consent; and iii. any effects otherwise managed through performance standards and consistent with all relevant objectives and policies for the zone. <p>c. In assessing activities that are non-complying due to being in an overlay zone, mapped area, in a scheduled site, or affecting a scheduled item, that otherwise require resource consent, the assessment guidance provided in relation to the underlying activity status will also be considered.</p>
<p>2. Archaeological sites (earthworks)</p>	<p><i>Relevant guidance from other sections (priority considerations):</i></p> <p>a. See Section 13.8 for guidance on the assessment of resource consents in relation to Objective 13.2.4 and effects related to the inappropriate development and use in Dunedin's archaeological sites.</p>

Rule 8A.9 Special Information Requirements {Confirmed for addition - EW cl.16¹}

¹ **EW cl.16:** As a clause 16 amendment, the Earthworks provisions have been moved from each of the management and major facilities zones. Where there has been no change to the effect of provisions (i.e. only formatting has changed or there are inconsequential wording changes), plain text is used. Where elements of provisions have been amended in response to submissions, strikethrough and underlining is used and submitter references provided.

8A.9.1 Geotechnical investigation report

1. A geotechnical investigation report may be requested by Council for earthworks ~~of a~~ **{EW cl.16}** large scale and/or where the earthworks are proposed:
 - a. on a site with a slope angle between 15° (3.7h:1v slope ratio, or 27% slope grade) and 26° (2h:1v slope ratio, or 50% slope grade);
 - b. on a site identified as hazard-prone in Council's Hazard Information Management System; or
 - c. on any other site that the **{HazMit cl.16}** Council, with good cause, suspects to be hazard-prone.
2. A geotechnical investigation report must be provided for earthworks on all sites with a slope greater than a 26° angle (2h:1v slope ratio, or 50% slope grade).
3. All requested geotechnical investigation reports must be prepared by a suitably qualified expert who is experienced in the practice of geotechnical engineering and registered under the Chartered Professional Engineers Act of New Zealand 2002, and who has professional indemnity insurance.
4. The geotechnical investigation report must address the following factors:
 - a. special design or construction requirements;
 - b. special foundation requirements;
 - c. services;
 - d. access;



- e. effluent disposal;
- f. non-engineered fills; and
- g. a statement of professional opinion as to the suitability of the land for the proposed development.