

In the Environment Court of New Zealand
Christchurch Registry

I Te Koti Taiao o Aotearoa
Ōtautahi Rohe

ENV-2018-CHC-151

Under	the Resource Management Act 1991 (RMA)
In the matter of	An appeal under clause 14(1) of Schedule 1 of the RMA in relation to the proposed Queenstown Lakes District Plan
Between	New Zealand Tungsten Mining Limited
	Appellant
And	Queenstown Lakes District Council
	Respondent

AMENDED Notice of Appeal

2 November 2018

Appellant's solicitors:

Maree Baker-Galloway | Rosie Hill
Anderson Lloyd
Level 2, 13 Camp Street, Queenstown 9300
PO Box 201, Queenstown 9348
DX Box ZP95010 Queenstown
p + 64 3 450 0700 | f + 64 3 450 0799
maree.baker-galloway@al.nz | rosie.hill@al.nz

**anderson
lloyd.**

To The Registrar
Environment Court
Christchurch

- 1 New Zealand Tungsten Mining (**Tungsten**) appeals against part of the decision of Queenstown Lakes District Council (**QLDC**) on the proposed Queenstown Lakes District Plan (**PDP**).
- 2 Tungsten made a submission (#519) and further submission (#1287) on the PDP.
- 3 Tungsten is not a trade competitor for the purpose of section 308D of the Resource Management Act 1991 (**RMA**).
- 4 Tungsten received notice of the decision on 7 May 2018.
- 5 The decision was made by QLDC.
- 6 The parts of the decisions appealed relate to:
 - (a) Chapter 2 Definitions;
 - (b) Chapter 6 Landscapes and Rural Character
 - (c) Chapter 21 Rural;
 - (d) Chapter 26 Historic Heritage;
 - (e) Chapter 35 Temporary Activities and Relocated Buildings
- 7 Reasons for appeal

Chapter 2 Definitions

- 8 Chapter 2 defines key terms related to activities contemplated under the PDP. These definitions impact how an activity is categorised and assessed under the relevant provisions and Chapters.
- 9 Tungsten considers the definitions for Mining Activity and Temporary Activity require further amendment. The current definitions are too narrow and do not accurately describe the nature and scope of mining activities in the District. Accurate and detailed definitions are necessary to ensure mining activities can be adequately provided for in an integrated and not piecemeal way and appropriately assessed. The accuracy with which mining activities are defined in Chapter 2 is fundamental to how they are assessed under the provisions of the PDP Chapters, particularly Chapters 21, 26 and 35.

- 10 Chapter 2 does not define a "mining building". This definition is required to ensure mining is adequately provided for under the PDP, as mining buildings are fundamental to enabling and supporting mining activities, just as farm buildings are to farming. And just like farming and farm buildings, mining and mine buildings are restricted in their location due to the physical presence of the natural resource that supports the activity. Mining buildings are also unique in design and effect. As such it is not appropriate to define buildings associated with mining activities as buildings generally.
- 11 The specific provisions of Chapter 2 and the relief sought by Tungsten are set out in **Appendix A** to this Appeal.

Chapter 6 Landscapes and Rural Character

- 12 Chapter 6 seeks to protect and manage landscape values in the District's rural areas. The policies of Chapter 6 align to relevant objectives and policies of Chapter 3, and provide guidelines to assessment made under Chapter 21.
- 13 As currently drafted the policies of Chapter 6 disproportionately provide for farming activities within these areas and unreasonably restrict non-farming rural activities such as mining. Amendments should be made to Chapter 6 to ensure that mining can be provided for in Chapter 21 without unreasonable restriction.
- 14 The overly restrictive policy framework of Chapter 6 overlooks the fact that mining activities can be managed in a way consistent with landscape values, often more so than farming or rural living activities. Mining activities are temporary in nature and limited in location and scope to areas where minerals are present. Adverse environmental effects can be managed and mitigated throughout the duration of the activity. Following completion of the activity, environmental effects can be remedied and landscape values restored. As such it is unreasonable to restrict mining in the rural zone on the basis it is a non-farming activity that may impact landscape values – the appropriateness of mining activities should be determined on a case by case basis in the context of the particular activity and assessed against relevant assessment matters.
- 15 The specific provisions of Chapter 6 and the relief sought by Tungsten are set out in **Appendix A** to this Appeal.

Chapter 21 Rural

- 16 Chapter 21 seeks to protect, maintain and enhance landscape values, resources and rural amenity by providing for the management of activities in the four Rural Zones.

- 17 Tungsten considers the degree to which farming activities are provided for in Chapter 21 is disproportionate to the established character of the rural zone, the economic benefit of established activities, and the impact on the environment of these activities.
- 18 Mining is a well-established rural activity which provides significant economic benefit to the local and wider economy. Chapter 21 should be amended to better recognise and provide for mining within the rural zone. As currently drafted, Chapter 21 considers mining activities under 'non-farming activities'. Mining activities are distinguishable from all other non-farming activities – as discussed, the nature of mining activities is such that landscape values can be adequately maintained or restored and environmental impact can mitigated and remedied. As such, it is appropriate for mining activities to be considered separately.
- 19 The provisions of Chapter 21 create blanket restrictions on most mining activities. Not only are these restrictions unreasonable, but this approach is not supported from a planning framework perspective. The appropriateness of mining activities should be considered on a case by case basis, assessed against the relevant standards and assessment matters which will be considered when a resource consent is applied for.
- 20 The specific provisions of Chapter 21 and the relief sought by Tungsten are set out in **Appendix A** to this Appeal.

Chapter 26 Historic Heritage

- 21 Chapter 26 is concerned with promoting the sustainable management of historic heritage features in the District. Tungsten generally supports the recognition of past mining activities and associated sites as historic and deserving of protection. However, Chapter 26 is overly restrictive in that it does not recognise the potential for modern mining activities to continue at or near heritage sites without adversely impacting the maintenance of these sites. Further, it is considered that identification of key heritage mining sites should be as specific as possible to enable heritage to be observed and understood, and so as not to impose undue restrictions on future use.
- 22 The specific provisions of Chapter 26 and the relief sought by Tungsten are set out in **Appendix A** to this Appeal.

Chapter 35 Temporary Activities and Relocated Buildings

- 23 Mining is a temporary activity, in terms of duration, and requirements imposed under current legislation to remedy effects. As stated above, mining activities are limited to specific sites where minerals are located, and once extraction is completed the site will cease to be used for that purpose. It is also temporary in

that adverse environmental effects are not permanent – with modern day mining techniques, and the standard required under the RMA for rehabilitation, the temporary effects will be remedied following completion of the activity and the site can be rehabilitated for other uses. As such, provision should be made for mining activities in Chapter 35.

- 24 The specific provisions of Chapter 35 and the relief sought by Tungsten are set out in **Appendix A** to this Appeal.

Attachments

- 25 The following documents are **attached** to this notice:

- (a) **Appendix A** – relief sought
- (b) **Appendix B** - A copy of the Appellant's submission and further submissions;
- (c) **Appendix C** - A copy of the relevant parts of the decision; and
- (d) **Appendix D** - A list of names and addresses of persons to be served with this notice.

Dated this 2nd day of November 2018



Maree Baker-Galloway/Rosie Hill
Counsel for the Appellant

Address for service of the Appellants

Anderson Lloyd

Level 2, 13 Camp Street

PO Box 201

Queenstown 9300

Phone: 03 450 0700 Fax: 03 450 0799

Email: maree.baker-galloway@al.nz | rosie.hill@al.nz

Contact persons: Maree Baker-Galloway | Rosie Hill

Advice to recipients of copy of notice of appeal

How to become party to proceedings

You may be a party to the appeal if you made a submission or a further submission on the matter of this appeal.

To become a party to the appeal, you must,—

- within 15 working days after the period for lodging a notice of appeal ends, lodge a notice of your wish to be a party to the proceedings (in form 33) with the Environment Court and serve copies of your notice on the relevant local authority and the Appellant; and
- within 20 working days after the period for lodging a notice of appeal ends, serve copies of your notice on all other parties.

Your right to be a party to the proceedings in the court may be limited by the trade competition provisions in section 274(1) and Part 11A of the Resource Management Act 1991.

You may apply to the Environment Court under section 281 of the Resource Management Act 1991 for a waiver of the above timing or service requirements (see form 38).

Advice

If you have any questions about this notice, contact the Environment Court in Christchurch.

Provision (PDP decision version)	Reason for appeal	Relief sought
Chapter 2 Definitions		
Mining Activity	The definition of "mining activity" is too narrow to ensure the integrated and effective assessment of mining operations, and is ambiguous as to the relationship between the definition of mining activity and the treatment of earthworks	Insert new definition of mining activity as follows: <div style="border: 1px solid black; padding: 5px; margin-top: 10px;"> <p><i>Mining Activity</i> (a) means operations in connection with mining, exploring, or prospecting for any mineral; and (b) includes, when carried out at or near the site where the mining, exploration, or prospecting is undertaken,— (i) the extraction, transport, treatment, processing, and separation of any mineral or chemical substance from the mineral; and (ii) the construction, maintenance, and operation of any works, structures, and other land improvements, and of any related machinery and equipment connected with the operations; and (iii) the removal of overburden by mechanical or other means, and the stacking, deposit, storage, and treatment of any substance considered to contain any mineral; and (iv) the deposit or discharge of any mineral, material, debris, tailings, refuse, or water produced from or consequent on the operations;</p> </div>
New definition Mining Building	Buildings associated with mining activities are required to enable and support those activities, making them an important aspect of mining. It is important that mining buildings are defined independently from other buildings and structures, as they may differ significantly in structural and practical features. As the location of mining is dependent on the location of the mineral resource, mining buildings should be treated in a similar manner to farming buildings.	Insert new definition as follows: <u><i>Mining Building</i></u> <u><i>Means a building (as defined) necessary for the undertaking of mining activities (as defined)</i></u>

Provision (PDP decision version)	Reason for appeal	Relief sought
	This new definition and related rules is sought to ensure mining activities are adequately provided for under the PDP.	
Temporary Activity	Mining, exploration and prospecting are temporary activities not permanent in nature and have limited or short term environmental impact and amenity effects. Recognition of such mining activities as temporary activities is important to ensure the appropriate level of scrutiny is applied to assessing the activity, and that appropriate mining activities are provided for under the PDP.	<p>Amend the definition of 'Temporary Activity' as follows:</p> <p>Means the use of land, buildings, vehicles and structures for activities of short duration and are outside the usual use of a site, that include the following:</p> <ul style="list-style-type: none"> • Temporary events • Temporary filming • Temporary activities related to building and construction • <u>Temporary exploration and prospecting</u> • Temporary military training • Temporary storage • Temporary utilities • Temporary use of a site as an airport for certain community events <p>A temporary activity does not include the extension of an activity authorised by a resource consent where in contravention to any conditions of the resource consent.</p>
Chapter 6 Landscapes and Rural Character		

Provision (PDP decision version)	Reason for appeal	Relief sought
<p>Policy 6.3.8</p> <p>Avoid indigenous vegetation clearance where it would significantly degrade the visual character and qualities of the District's distinctive landscapes. (3.2.1.8, 3.2.5.1, 3.2.5.2, 3.3.19, 3.3.30, 3.3.32).</p>	<p>NZTM submitted on the same policy (as notified, 6.3.7) which has largely been unchanged through the Council's Decision. The Decision version of the policy will create essentially a prohibition on any clearance of indigenous vegetation. This is not an effects- based policy which the Plan requires, and will result in some appropriate activities, such as mining, being unable to be carried out.</p>	<p>Amend policy 6.3.8 as follows:</p> <p>Avoid <u>remedy or mitigate</u> indigenous vegetation clearance where it would significantly degrade the visual character and qualities of the District's distinctive landscapes. (3.2.1.8, 3.2.5.1, 3.2.5.2, 3.3.19, 3.3.30, 3.3.32).</p>
<p>Policy 6.3.10</p> <p>Ensure that subdivision and development in the ONL and RCL adjacent to ONFs does not have more than minor adverse effects on landscape quality, character and visual amenity of the relevant ONF (3.2.5.1, 3.3.30)</p>	<p>This policy is overly restrictive and does not provide for reasonable development in the Rural Zone. For example, mining activities can be appropriate adjacent to ONFs, as the development is concentrated in location and adverse effects can be adequately controlled or mitigated, and is not a permanent activity or change to the landscape.</p>	<p>Delete the policy</p>
<p>Policy 6.3.12</p> <p>Recognise that subdivision and development is inappropriate in almost all locations in Outstanding Natural Landscapes and on Outstanding Natural Features, meaning successful applications will be exceptional cases where the landscape or feature can absorb the change and where the buildings and structures and associated roading and boundary changes will be reasonably difficult to see from</p>	<p>This policy is overly restrictive and does not provide for reasonable development in the Rural Zone. It will create a blanket opposition to development in ONFs/ONLs, regardless of whether a particular development is appropriate in context. The preferred approach is for the appropriateness of development in an ONL/ONF to be determined in regards to the relevant assessment matters, in the circumstances of the application at hand, and namely consider whether the adverse effects of the development are minor or less than minor and can be</p>	<p>Amend Policy 6.3.12. as follows:</p> <p>Recognise that <u>successful applications for</u> subdivision and development is inappropriate in almost all locations in Outstanding Natural Landscapes and on Outstanding Natural Features, meaning successful applications will be <u>exceptional limited to</u> cases where <u>adverse effects to</u> the landscape or feature can <u>be adequately avoided, remedied or mitigated</u> absorb the change and where the buildings and structures and</p>

Provision (PDP decision version)	Reason for appeal	Relief sought
<p>beyond the boundary of the site the subject of application. (3.2.1.1, 3.2.5.1, 3.3.21, 3.3.30).</p>	<p>avoided, remedied or mitigated.</p> <p>For example, mining activities can be appropriate on ONLs/ONFs, more so than other development potentially, as the development is concentrated in location, can even be underground, and adverse effects can be adequately controlled or mitigated, and is not a permanent activity or change to the landscape.</p>	<p>associated roading and boundary changes <u>will not be visually prominent</u> be reasonably difficult to see from beyond the boundary of the site the subject of application. (3.2.1.1, 3.2.5.1, 3.3.21, 3.3.30).</p>
<p>Policy 6.3.15</p> <p>The landscape character and amenity values of Outstanding Natural Landscapes are a significant intrinsic, economic and recreational resource, such that new large scale renewable electricity generation or new large scale mineral extraction development proposals are not likely to be compatible with them. (3.2.5.1, 3.3.25, 3.3.30)</p>	<p>Like the above policy, this policy is overly restrictive and is a blanket opposition to development in ONFs/ONLs, regardless of whether a particular development is appropriate in context. The appropriateness of new mining extracting development should be determined in regards to the relevant assessment matters, in the circumstances of the application at hand, and namely consider whether the adverse effects of the development are less than minor and can be avoided, remedied or mitigated.</p>	<p>1. Delete Policy 6.3.15</p> <p>Or in the alternative</p> <p>2. Amend Policy 6.3.15 as follows:</p> <p>The landscape character and amenity values of Outstanding Natural Landscapes are a significant intrinsic, economic and recreational resource, such that new large scale <u>above ground</u> renewable electricity generation or new large scale mineral extraction development proposals are not likely to be compatible with them <u>where the development has significant, permanent adverse effect on the landscape that cannot be mitigated or remedied.</u> (3.2.5.1, 3.3.25, 3.3.30)</p>

Provision (PDP decision version)	Reason for appeal	Relief sought
Chapter 21 Rural		
Rural Zone - Purpose	<p>The Zone purpose as set out creates a heavy emphasis on the importance of agriculture and farming activities. The District Plan should recognise that other activities which must exist in the rural areas should also be adequately provided for where they are sensitive to the characteristics of the rural areas, and where they contribute to the higher order provisions of the Proposed Plan, such as the emphasis on a resilient and strong economy in Chapter 3.</p> <p>The wording of the zone purpose should be tempered to recognise other sectors such as mining and tourism.</p>	<p>Add the following to the Rural Zone Purpose:</p> <p><i>"Mining activity, including exploration and drilling, have often existed within rural areas which may be subject to a landscape classification, and have had no lasting adverse effects. These activities can provide significant ongoing economic, heritage and social benefits to the district where the environmental effects are managed appropriately. Many of the natural and outstanding landscapes in the District have already been significantly modified through mining activity and this adds to the special character of particular landscapes."</i></p>
<p>Policy 21.2.4.2</p> <p>Control the location and type of non-farming activities in the Rural Zone, so as to minimise conflict between permitted and established activities and those that may not be compatible with such activities.</p>	<p>Objective 21.2.4 recognises that conflict may arise between existing and anticipated activities in the Rural Zone, and provides that anticipated sensitive activities will need to be managed accordingly.</p> <p>The amendment sought to policy 21.2.4.2 is to bring the policy into line with the wording of policy 21.2.4.1 and the intention of objective 21.2.4. Recognition should be given to the fact that there are existing non-farming activities in the Rural Zone, such as mining / mineral extraction, which should also be taken into consideration under</p>	<p>Amend policy 21.2.4.2 as follows:</p> <p><u>Manage Control</u> the location and type of non-farming activities in the Rural Zone, so as to <u>manage-minimise</u> conflict between permitted and established activities and those that may not be compatible with such activities.</p>

Provision (PDP decision version)	Reason for appeal	Relief sought
	objective 21.2.4..	
Objective 21.2.5 Mineral extraction opportunities are provided for on the basis the location, scale and effects would not degrade amenity, water, wetlands, landscape and indigenous biodiversity values.	Mining activities are temporary in nature and the location of mining activities is solely dependent on the location of the resource. They may have an impact on amenity, water, wetlands, landscape and / or indigenous biodiversity values that is short term, but will be able to be remedied following completion of the activity. Provision should be made for mining activities where it can be evidenced that such effects will not be permanent.	Amend Objective 21.2.5 as follows: Mineral extraction opportunities are provided for on the basis the location and effects would not degrade-cause permanent <u>degradation to</u> amenity, water, wetlands, landscape and indigenous biodiversity values.
Policy 21.2.5.1 Have regard to the importance and economic value of locally mined high-quality gravel, rock and other minerals including gold and tungsten.	The amendments to this policy are sought to better recognise the role of mining gold and tungsten to both local and export economies.	Amend Policy 21.2.5.1 as follows: Have regard to the importance and economic value of locally mined high-quality gravel, rock and <u>the importance of the local economic and export contribution from the mining of</u> other minerals including gold and tungsten.
Policy 21.2.9.2 Ensure that revenue producing activities utilise natural and physical resources (including existing buildings) in a way that maintains and enhances landscape quality, character, rural amenity, and natural resources	In a number of instances it is not possible to achieve both maintenance and enhancement of physical resources, particularly where this requires enhancement of all of the following: landscape quality, character, rural amenity, and natural resources. The legislative standard for section 6 landscapes does not require enhancement, but rather this is often considered as an offered positive benefit as part of a development proposal.	Amend Policy 21.2.9.2 as follows: Ensure that revenue producing activities utilise natural and physical resources (including existing buildings) in a way that maintains and <u>or</u> enhances landscape quality, character, rural amenity, and natural resources
Interpreting and applying rules – provision 21.3.3.5 The existence of a farm building either permitted or approved by resource consent under Rule 21.4.2 or Table 5 – Standards for Farm Buildings shall not be	The amendment sought to this policy is to better reflect the purpose and terminology of the RMA. Buildings associated with certain non-farming activities within the Rural Zone, such as mining, should be considered from the same baseline as	Amend provision 21.3.3.5 as follows: The existence of a farm building either permitted or approved by resource consent under Rule 21.4.2 or Table 5 – Standards

Provision (PDP decision version)	Reason for appeal	Relief sought
<p>considered the permitted baseline for residential or other non-farming activity development within the Rural Zone.</p>	<p>farm buildings. Both mining and farming are established activities in the Zone and equal provision should be made for buildings required for the support and enablement of these activities.</p>	<p>for Farm Buildings shall not be considered the permitted baseline for residential or other non-farming activity development within the Rural Zone.</p>
<p>Assessment matters</p> <p>21.21.1.4– Effects on visual amenity</p> <p>In considering whether the potential visibility of the proposed development will maintain and enhance visual amenity, values the Council shall be satisfied that:</p> <p>....</p> <p>21.21.3.3(b)</p> <p>...</p> <p>whether the proposed subdivision or development would enhance the character of the landscape, or protects and enhances indigenous biodiversity values, in particular the habitat of any threatened species, or land environment identified as chronically or acutely threatened on the Land Environments New Zealand (LENZ) threatened environment status;</p>	<p>In these assessment matters is the requirement to both 'maintain AND enhance' physical resources. In a number of instances it is not possible to achieve both maintenance and enhancement of physical resources, The legislative standard for section 6 landscapes does not require enhancement, but rather this is often considered as an offered positive benefit as part of a development proposal. The assessment matters as currently drafted will inhibit appropriate activities in some instances.</p>	<p>Amend assessment matters as follows:</p> <p>21.21.1.4– Effects on visual amenity</p> <p>In considering whether the potential visibility of the proposed development will maintain and <u>or</u> enhance visual amenity, values the Council shall be satisfied that:</p> <p>....</p> <p>21.21.3.3(b)</p> <p>...</p> <p>whether the proposed subdivision or development would enhance the character of the landscape, or protects <u>protects and or</u> enhances indigenous biodiversity values, in particular the habitat of any threatened species, or land environment identified as chronically or acutely threatened on the Land Environments New Zealand (LENZ) threatened environment status;</p>
<p>New Policy</p>	<p>A new policy is proposed, recognising and providing for the identification of existing mineral resources in the region. This would provide for an efficient use of the natural and physical resources for the purposes of sustainable management, in recognising that where possible mining activities can be undertaken on existing or pre-existing mining sites.</p>	<p>Add the following new policy:</p> <p><u>Identify the location and extent of existing or pre-existing mineral resources in the region and encourage future mining activity to be carried out in these locations.</u></p>

Provision (PDP decision version)	Reason for appeal	Relief sought
New Policy	A new policy is proposed to recognise the ability for mining to be carried out in a way which can adequately manage adverse effects on the environment while providing positive economic and social returns.	Add the following new policy: <u>Enable mining activity, including prospecting and exploration, where they are carried out in a manner which avoids, remedies or mitigates adverse effects on the environment.</u>
New Policy	A new policy is proposed to recognise the ability for mining to be carried out in a way which can adequately manage adverse effects on the environment while providing positive economic and social returns.	Add the following new policy: <u>Recognise that exploration, prospecting and small-scale alluvial gold mining are activities with low environmental effects.</u>
Table 4 – Standards for Structures and Buildings Rule 21.7 The following standards apply to structures and buildings, other than Farm Buildings.	This Rule is amended to recognise the existence of mining activities in the Rural Zone.	Amend Rule 21.7 as follows: The following standards apply to structures and buildings, other than Farm Buildings <u>and Mining Buildings.</u>
Table 5 – Standards for Farm Buildings Rule 21.8.1 Construction, Extension or Replacement of a Farm Building	This rule should not apply to containers.	Amend Rule 21.8.1 as follows 21.8.1.3 The farm building must not be located within or on an Outstanding Natural Feature (ONF);*

Provision (PDP decision version)	Reason for appeal	Relief sought
		<u><i>*this rule does not apply to containers</i></u>
<p>Table 8 – Standards for Mining and Extraction Activities</p> <p>Rule 21.11.1.1</p> <p>Rule 21.11.1.2</p>	<p>All other mining activities, if not within the controlled and permitted thresholds, should default to a discretionary activity status. It is unclear what logic was relied on to establish a non-complying activity status for mining in relation to mining activities in ONFs and lake / river beds. Small scale suction dredges are provided for as a permitted activity (rule 21.4.29(b), yet can only operate within a lake or riverbed. Further, it is not apparent there is any scope to change the status of these activities from discretionary (as notified) to non-complying.</p> <p>It is the jurisdiction of the Otago Regional Council to control disturbance of river beds. Some disturbance of river beds and extraction of alluvium is permitted under the Otago Regional Plan:Water rule 13.5.1.6); Suction dredge mining can be permitted under rule 13.5.1.7. The default activity status for disturbance of a river bed in the regional plan is discretionary. There are no non-complying activities in this regard, and no justification nor jurisdiction for the district council to impose a more stringent status for mining.</p> <p>Regardless, a non-complying activity status for these activities is not the most appropriate means to regulate mining activities. Mining activities, including within an ONF or lake / river bed, should be considered against assessment matter 21.21.1. There will be situations where such a temporary activity, dependent on location specific resources, is appropriate, and this should be provided for in the PDP.</p>	<div data-bbox="1451 671 2047 820" style="background-color: #cccccc; padding: 5px; text-align: center;"> <p>Table 8 – Standards for Non-complying status Mining and Extraction of Activities</p> </div> <p>Delete table 8 or amend Rule 21.11.1 as follows:</p>

Provision (PDP decision version)	Reason for appeal	Relief sought	
		<p>21.22.1.1. This activity will not be undertaken on an Outstanding Natural Feature.</p> <p>21.22.1.2 Other than activities permitted by rule 21.4.29(b), the activity will not be undertaken in the bed of a lake or river.</p>	<p>NG <u>D</u></p>
<p>Assessment matter 21.21.1.1</p> <p>In applying the assessment matters, the Council will work from the presumption that in or on Outstanding Natural Features and Landscapes, the applicable activities are inappropriate in almost all locations and that successful applications will be exceptional cases where the landscape or feature can absorb the change and where the buildings and structures and associated roading and boundary changes are reasonably difficult to see from beyond the boundary of the site the subject of application.</p>	<p>The assessment matter is amended in line with the amendments proposed to policy 6.3.12</p> <p>As stated, the current wording is overly restrictive and does not provide for reasonable development in the Rural Zone. It will create a blanket opposition to development in ONFs/ONLs, regardless of whether a particular development is appropriate in context. Collectively the provisions of Chapter 3, 6 and 21 (subject to these amendments), and a contextual assessment of any application, are sufficient to ensure appropriate development and maintenance and enhancement of ONFs and ONLs.</p>	<p>Amend Assessment matter 21.21.1.1 as follows:</p> <p>In applying the assessment matters, the Council will work from the presumption that in or on Outstanding Natural Features and Landscapes, the applicable activities are inappropriate in almost all locations and that successful applications <u>for applicable activities</u> will be exceptional <u>limited to cases where adverse effects to the landscape or feature can be adequately avoided, remedied or mitigated absorb the change</u> and where the buildings and structures and associated roading and boundary changes will not be visually prominent are reasonably difficult to see from beyond the boundary of the site the subject</p>	

Provision (PDP decision version)	Reason for appeal	Relief sought
		of application.
Chapter 26 Historic Heritage		
<p>Policy 26.3.4.5</p> <p>Recognise the potential for ongoing small-scale mining activities consistent with the maintenance of heritage and landscape values within the Glenorchy heritage overlay area, subject to the protection of features identified in section 26.10.</p>	<p>At current this policy is unnecessarily restrictive. It is not necessary to limit recognition of mining activities to 'ongoing small scale' activities. If activities are consistent with the maintenance of heritage and landscape values under section 26.10 then potential should be recognised, regardless of the scale of the activity.</p>	<p>Amend Policy 26.3.4.5 as follows:</p> <p>Recognise the potential for ongoing small-scale mining activities consistent with the maintenance of heritage and landscape values within the Glenorchy heritage overlay area, subject to the protection of features identified in section 26.10.</p>
<p>Rule 26.10.9. Key Features to be protected</p> <p>26.10.9.1 All mines, mining huts, the cableway and track ways within the GHL boundary (including the Black Peak Mine).</p> <p>26.10.9.2 The mines along the Mount Judah Road.</p> <p>26.10.9.3 All other known historic mining sites within the GHOA.</p>	<p>Subsurface heritage features have little amenity value and thus, greatly reduced heritage value.</p> <p>The current wording seems to protect all tracks which is not justified. The wording should be clarified so it is clear the protection is for historic tracks.</p> <p>"Mine site" could encompass land adjacent to mine entrances (adits), which is too general. A modern mine entrance adjacent to an old one is beneficial for the purposes of continuing the ongoing interpretation of the area and allowing visitors to understand the changes in technology and the wax and wane of the mining cycle.</p> <p>Rule 26.10.9.3 is not appropriate to include in this section as it does not sufficiently define which sites are to be protected. This rule should clearly identify all sites for protection without the need for a catch-all blanket protection.</p>	<p>Amend Rule 26.10.9 as follows:</p> <p>26.10.9.1 All mines <u>Significant heritage mine entrances</u>, mining huts, the cableway and track ways within the GHL boundary (including the Black Peak Mine).</p> <p>26.10.9.2 The mines along the Mount Judah Road.</p> <p>26.10.9.3 All other known historic mining sites within the GHOA.</p>

Provision (PDP decision version)	Reason for appeal	Relief sought
Chapter 35 Temporary Activities and Relocated Buildings		
Policy 35.2.5.1 Permit temporary storage related to farming activity.	The following addition is recommended to provide for temporary mining activities such as exploration and prospecting	Amend Policy 35.2.5 as follows: Permit temporary storage related to farming activity, <u>exploration and prospecting</u> .

Appendix B - A copy of the Appellant's submission and further submissions

Appendix C - A copy of the relevant parts of the decision

Appendix D - A list of names and addresses of persons to be served with this notice.