

STAGE 3 - SECTION 32

CHAPTER 8

SUBDIVISION, DEVELOPMENT AND EARTHWORKS

ADDENDUM B - EARTHWORKS

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1. STRATEGIC CONTEXT

1.1 PURPOSE AND SCOPE OF THE SUBDIVISION, DEVELOPMENT AND EARTHWORKS CHAPTER

The purpose of the Subdivision, Development and Earthworks Chapter is set out in the main body of this report. This addendum specifically addresses the earthworks component of the chapter. This chapter manages all earthworks not subject to flood hazard. These are managed by Chapter 5 Natural Hazards.

Both the Christchurch City Plan and the Banks Peninsula District Plan currently provide a very large and broad suite of objectives and policies in relation to earthworks, though in a dispersed fashion within the Banks Plan. In reviewing those provisions, a number of changes were identified that would assist with Canterbury's recovery. In particular there is a need to:

- re-focus the objectives and policies so they specifically recognise and respond to recovery issues and identify opportunities to remove unnecessary regulatory controls on residential activities (i.e. reduce consent and notification requirements).
- review the provisions (some being nearly twenty years old) to ensure they reflect the direction of relevant statutory documents, in particular the Greater Christchurch Land Use Recovery Plan and Canterbury Regional Policy Statement.
- streamline provisions.

1.2 PROPOSED DISTRICT PLAN: OVERVIEW AND SYNOPSIS

The earthworks component of this chapter manages earthworks across all zones in tandem with Chapter 5. This section is important to the rebuild and recovery of the district as it and includes specific provisions enabling the appropriate repair of land damaged by earthquakes.

The Strategic Directions Chapter of the Proposed Plan provides direction for the chapter in the following objectives and supporting policies:

- 3.6.1 Objective - Recovery And Long-Term Future Of The District
- 3.6.2 Objective - Development Form And Function
- 3.6.3 Objective - Manawhenua
- 3.6.4 Objective - Natural And Cultural Environment
- 3.6.5 Objective - Natural Hazards
- 3.6.6 Objective - Amenity, Health And Safety

The proposed earthworks section of the chapter contains two objectives (and associated policies) relating to Natural and Built Environments, and Health and Safety. Further objectives and policies are contained within Chapter 5 in relation to hazards.

Rules are divided into general rules applying across all zones, and rules applying to instances where land has been damaged by earthquakes. Again, Chapter 5 addresses earthworks within identified flood hazard areas.

Appendix 1 to this addendum sets out the linkages between all provisions in the earthworks section of this chapter.

1.3 RESEARCH

Council has received technical advice and assistance from various internal experts and utilised this, along with internal workshops and community feedback, to assist with setting the Plan framework for the proposed earthworks provisions.

1.4 CONSULTATION

During the pre-notification stage of drafting the Subdivision, Development and Earthworks Chapter Phase 2, a number of consultation meetings were held. Comments received at these sessions relating to earthworks are summarised at Section 6 to this addendum.

The Christchurch Joint Officials Group, the Collaborative Advisory Group, Mahaanui Kurataiao Limited and Te Rununga O Ngai Tahu were provided opportunity for input during the preparation of the earthworks section.

2. RESOURCE MANAGEMENT ISSUES

2.1 STRATEGIC PLANNING DOCUMENTS

Those strategic matters and provisions that have been specifically given effect or had regard to in this Chapter are summarised in the table below.

Key themes to emerge from these objectives as relevant to earthworks are:

1. management of earthworks to protect water quality;
2. management of earthworks to protect flora and fauna;
3. management of earthworks to protect landscapes;
4. management of earthworks to protect heritage; and
5. earthworks which will not preclude future development.

Document	Relevant provisions	How the Subdivision, Development and Earthworks Chapter will take into account/give effect to the relevant provisions
Resource Management Act 1991 (RMA), Part 2, Section 5 Purpose	Sustainable management of natural and physical resources.	Promote the sustainable management of natural and physical resources through earthworks objectives, policies and rules.
RMA, Part 2, Section 6 Matters of National Importance	Recognise and provide for: (a) Coastal environment (including the coastal marine area), wetlands, and lakes and rivers and their margins (b) outstanding natural features and landscapes (c) areas of significant indigenous vegetation and significant habitats of indigenous fauna (d) maintenance and enhancement of public access to and along the coastal marine area, lakes, and rivers (e) relationship of Maori and their culture and traditions with their ancestral lands, water, sites, waahi tapu, and other taonga	Recognise and provide for these matters through earthworks objectives, policies and rules, to ensure protection from inappropriate activities.

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	(f) historic heritage.	
RMA, Part 2, Section 7 Other Matters	Have particular regard to: (a) kaitiakitanga (aa) the ethic of stewardship (b) the efficient use and development of natural and physical resources (c) the maintenance and enhancement of amenity values (d) intrinsic values of ecosystems (f) maintenance and enhancement of the quality of the environment.	Have particular regard to these matters through earthworks objectives, policies and rules, to ensure protection from inappropriate activities.
RMA, Part 3, Section 11	Controls circumstances under which activities can occur, including being allowed by a rule in a District Plan (section 11(1)(a)).	Give effect to section 11(1)(a) through earthworks objectives, policies and rules, to ensure protection from inappropriate activities.
RMA, Part 4, Section 31	Requires Territorial Authorities to regulate to achieve integrated management of the effects of the use, development, or protection of land and associated natural and physical resources of the district.	Give effect to section 31 through earthworks objectives, policies and rules, to ensure protection from inappropriate activities.
The Canterbury Regional Policy Statement (CPRS);	Chapter 2 - Issues of resource management significance to Ngāi Tahu Chapter 4 - Provision for Ngāi Tahu and their relationship with resources Chapter 5 - Land-use and infrastructure Chapter 6 - Recovery and Rebuilding of Greater Christchurch Chapter 7 - Fresh water Chapter 8 - The coastal environment Chapter 9 - Ecosystems and indigenous biodiversity Chapter 10 - Beds of rivers and lakes and their riparian zones Chapter 11 - Natural hazards Chapter 12 – Landscape Chapter 13 - Historic heritage Chapter 14 - Air quality Chapter 15 – Soils Chapter 17 - Contaminated land	Give effect to relevant objectives in these chapters through earthworks objectives, policies and rules.
New Zealand Coastal Policy Statement	Requires that local authorities safeguard the integrity, form, functioning and resilience of the coastal environment and sustain its ecosystems, its character and natural features and landscape. Requires that local authorities take account of the principles of the Treaty of Waitangi and the role of tangata whenua. Requires that local authorities maintain and enhance the public open space qualities and recreation opportunities of the coastal environment. Requires that local authorities balance social, economic, and cultural wellbeing and health and safety against subdivision, use, and development of	Give effect to relevant objectives in these chapters through earthworks objectives, policies and rules.

	the coastal environment.	
The Canterbury Earthquake Recovery Strategy;	<p>Vision - Greater Christchurch recovers and progresses as a place to be proud of – an attractive and vibrant place to live, work, visit and invest, mō tātou, ā, mō kā uri ā muri ake nei – for us and our children after us.</p> <p>Revitalise greater Christchurch as the heart of a prosperous region for business, work, education, and increased investment in new activities.</p> <p>Strengthen community resilience, safety and wellbeing, and enhance quality of life for residents and visitors</p> <p>Renew greater Christchurch's unique identity and its vitality expressed through sport, recreation, art, history, heritage and traditions.</p> <p>Develop resilient, cost effective, accessible and integrated infrastructure, buildings, housing and transport networks.</p> <p>Restore the natural environment to support biodiversity and economic prosperity and to reconnect people to the rivers, wetlands and Port Hills.</p>	The Strategy was prepared pursuant to section 15 of the CER Act, and is a statutory document. The District Plan must not be inconsistent with the Recovery Strategy (see sections 15 and 26 (2) of the CER Act available on the CERA website).
The Land Use Recovery Plan (LURP);	<ul style="list-style-type: none"> ▪ Action 20 (which seeks to enable building of new communities); ▪ Action 38 (which seeks to avoid hazards); ▪ Action 43 (where it seeks to mitigate hazard); ▪ Action 45 (reducing consenting requirements). 	Give effect to the relevant LURP actions through earthworks objectives, policies and rules.
The Mahaanui Iwi Management Plan (IMP)	<p>Objectives:</p> <p>5.3 (Wai Maori)</p> <p>5.4 (Papatuanuku)</p> <p>5.5 (Tane Mahuta)</p> <p>5.6 (Tangaroa)</p> <p>5.7 (Nga Tutohu Whenua).</p>	Take account of the relevant objectives and policies through earthworks objectives, policies and rules.

2.2

RESOURCE MANAGEMENT ISSUE 1 –PROTECTION OF SIGNIFICANT NATURAL, CULTURAL AND HISTORIC HERITAGE
<p>The district contains many significant natural, cultural and historic heritage places. Earthworks can have either temporary effects and/or permanent effects on these places. Many of these places require recognition or protection through sections 6 or 7 of the RMA. Current provisions do not adequately manage these adverse effects to achieve the level of protection required by the RMA, and address the requirements contained in other more recent statutory documents.</p>

2.3

RESOURCE MANAGEMENT ISSUE 2 – HEALTH AND SAFETY

The places in which people live, work and play can be affected by earthworks, either temporarily (e.g. dust, traffic, vibration) or permanently (e.g. changes to the landscape, ground stability).

The existing objectives and policies address health and safety but not comprehensively. The stability of land in particular is important to the function and resilience of the District.

3. SCALE AND SIGNIFICANCE EVALUATION

The assessment of scale and significance in the Section 32 Report for the Strategic Directions Chapter identifies a range of matters, with some being directly relevant to the earthworks section of this chapter. It is not intended to revisit this assessment in each chapter and the reader is referred to the assessment in the Strategic Directions Chapter, however, it is important to note that the Strategic Directions Chapter provides significant direction in terms of preparation of the proposed objectives, policies and rules.

The scope and nature of content changes represent a minor update to consolidate and enhance existing provisions rather than a significant policy shift from the Operative Plans. In some cases provisions already appear in one of the Operative Plans and so provisions are being made consistent across the District. There are no significant policy shifts in this section of the chapter.

To support the rules, the review includes a number of definitions. The definitions are largely based on those in the existing operative District Plans, and while there have been some merging, clarifying and updating, none of the amendments are considered to be significant.

4. EVALUATION OF OBJECTIVES

Section 32(1)(a) of the RMA requires the Council to evaluate the extent to which the objectives are the most appropriate way to achieve the purpose (section 5) of the Act.

4.1 Evaluation of Proposed Objectives

GENERAL POLICY DIRECTION OPTIONS AND RECOMMENDATIONS

1. Status Quo – retain existing objectives, policies, rules and assessment matters
2. Amend existing objectives, policies, rules and assessment matters.

The recommendation is to amend existing objectives, policies, rules and assessment matters in order to:

- Enhance protection of natural, cultural and historic heritage
- Ensure the health and safety of people and the appropriateness of earthworks
- Align Christchurch City and Banks Peninsula provisions
- Give effect to/take account of strategic planning documents.

ADOPTED GENERAL POLICY DIRECTION

The above recommendation has been confirmed, insofar as the priority section of this chapter extends, through the Technical Advisory Group, Collaborative Advisory Group, legal review, and Christchurch Joint Officials Group.

It is not considered practical to retain existing provisions. They are often not consistent across the

existing District Plans and are out of date.	
OBJECTIVE MOST APPROPRIATE WAY TO ACHIEVE THE PURPOSE OF THE RMA	
Objective	Summary of Evaluation
<p>OBJECTIVE 8.5.1 Protecting the environment from earthworks Outstanding natural features and landscapes, significant indigenous biodiversity and ecosystem functioning, water quality, significant trees, and heritage items and settings are not adversely affected by earthworks or associated structures, while recognising the benefits of some activities involving earthworks.</p>	<p>The objective is considered the most appropriate way to achieve the purpose of the Act because it:</p> <ul style="list-style-type: none"> • Is more comprehensive and effective than the status quo in addressing Resource Management Issue 1 – protection of significant natural, cultural and historic heritage. Achieves greater recognition of the importance of protection of significant built and natural features. • Is better than status quo in giving effect to the relevant sections of the Act – in particular: principles in section 6(a-f), section 7(a), (aa), (b), (d), section 11 and section 31. • Gives effect to the relevant provisions of the strategic planning documents listed in section 2.1 of this report. • Aligns with the provisions of the Strategic Directions Chapter of the Proposed Plan, in particular the objectives and supporting policies identified previously in this document.
<p>OBJECTIVE 8.5.2 Health and safety People and property are protected during, and subsequent to, earthworks, while recognising the benefits of some activities involving earthworks.</p>	<p>The objective is considered the most appropriate way to achieve the purpose of the Act because it:</p> <ul style="list-style-type: none"> • Is more comprehensive and effective than the status quo in addressing Resource Management Issue 2 – health and safety. • Is better than status quo in giving effect to the relevant sections of the Act – in particular: principles in section 5. • Gives effect to the relevant provisions of the strategic planning documents listed in section 2.1 of this report. • Aligns with the provisions of the Strategic Directions Chapter of the Proposed Plan, in particular the objectives and supporting policies identified previously in this document.

5. EVALUATION OF PROPOSED POLICIES, RULES AND METHODS

Section 32 (1)(b) requires an evaluation of whether the provisions are the most appropriate way to achieve the objectives by identifying other reasonable practicable options, assessing the efficiency and effectiveness of the provisions in achieving the objectives, and summarising the reasons for deciding on the provisions.

The assessment must identify and assess the benefits and costs of environmental, economic, social and cultural effects that are anticipated from the implementation of the provisions, including opportunities for economic growth and employment. The assessment must if practicable quantify the benefits and costs and assess the risk of acting or not acting if there is uncertain or insufficient information available about the subject matter.

The bulk of earthworks undertaken in the district are either in relation to subdivision, building or quarrying. These earthworks are managed either through subdivision consent, building consent, or resource consent. The council does not expect to receive a significant number of consent applications for other earthworks.

5.1 Policy and Rules relating to Natural, Cultural and Historic Heritage

PROVISIONS (POLICY, RULE, METHOD) MOST APPROPRIATE WAY TO ACHIEVE THE OBJECTIVES	
Relevant objective: OBJECTIVE 8.5.1 Enable earthworks and manage their effects on significant natural and built features	
Provision(s) most appropriate	Effectiveness and Efficiency
<p>Option 2 (Strengthened policies and rules)</p> <p>Policy 8.5.1.1 : Heritage Earthworks shall not adversely affect the values associated with identified heritage items or settings, including Ngai Tahu manawhenua values.</p> <p>Policy 8.5.1.2 : Biodiversity and ecosystems Earthworks shall not adversely affect the ecological resilience and functioning, habitat values, and amenity values of areas of significant indigenous vegetation, while recognising the benefits of some activities involving earthworks.</p> <p>Policy 8.5.1.3 : Landscape Earthworks shall not adversely affect the values, visual amenity or character associated with outstanding natural features and landscapes, including Ngai Tahu manawhenua values, while recognising the benefits of some activities involving earthworks.</p> <p>Policy 8.5.1.4 : Trees Earthworks shall not adversely affect identified significant trees, including through changes to ground level.</p> <p>Policy 8.5.1.5 : Water quality Ensure earthworks do not result in erosion, inundation or siltation, and do not have an adverse effect on surface water or groundwater quality, while recognising the benefits of some activities involving earthworks.</p>	<p>Effectiveness Option 2 is considered more effective in achieving the objective as it will:</p> <ul style="list-style-type: none"> • Ensure protection of natural, cultural and historic heritage. • Potentially increase opportunities for economic growth through greater retention of features and associated employment opportunities in tourism and hospitality. • Result in greater environmental benefits than the alternative option. • Result in consistency across the district and across the District Plans. • Clarify and streamline notification and written approval requirements. <p>Efficiency Benefits</p> <ul style="list-style-type: none"> ▪ Enhanced protection of natural, cultural and historic heritage. ▪ Economic benefit to the district from the greater retention of natural, cultural and historic heritage, including employment opportunities in tourism and hospitality and increased investment in a more attractive District. ▪ No significant costs of compliance, including resource consent costs and processing times. <p>Costs</p> <ul style="list-style-type: none"> ▪ The thresholds set are conservative in some instances, particularly in residential areas. There are, however, a series of exemptions which reduce the effect of conservative thresholds. <p>Benefits to the environment significantly outweigh costs which are principally economic. Environmental benefits are greater than for the alternative option and will offset any increase in compliance and opportunity costs.</p>
Options less or not as appropriate to achieve the Objectives and policies:	
Option 1 (Status quo – current policies and	Appropriateness

rules)	Retaining the existing policies and rules would ensure some continued protection of natural, cultural and historic heritage, however, there is no specific set of objectives and policies within the Banks Plan and both plans would need to be updated to reflect the scope of what is proposed to be protected through draft Chapter 9 (Natural and Cultural Heritage).
Risk of Acting or Not Acting	
The information available is considered sufficient to inform the review. No significant changes in policy direction and proposed.	

5.2 Policy and Rules relating to health and safety

PROVISIONS (POLICY, RULE, METHOD) MOST APPROPRIATE WAY TO ACHIEVE THE OBJECTIVES	
<p>Relevant objective: OBJECTIVE 8.5.2 Health and safety People and property are protected during, and subsequent to, earthworks.</p>	
Provision(s) most appropriate	Effectiveness and Efficiency
<p>Option 2 (Strengthened policies and rules)</p> <p>Policy 8.5.2.1 : Land stability Avoid earthworks that will create a significant risk to people and property through subsidence, rockfall, cliff collapse, erosion, inundation, siltation or overland flows, while recognising the benefits of some activities involving earthworks in the repair, rebuild and recovery of the district.</p> <p>Policy 8.5.2.2 : Nuisance Earthworks shall not generate continuous or persistent nuisance, including noise, vibration, dust or odour, that have more than minor adverse effects on the amenity values and the health and safety of people and their property while recognising the benefits of some activities involving earthworks in the repair, rebuild and recovery of the district.</p> <p>Policy 8.5.2.3 : Vehicle movement Ensure the transportation of earth, construction, or fill material to and from a site, is undertaken in a way that is safe and minimises adverse effects on surrounding amenity and the transport network while recognising the benefits of some activities involving earthworks in the repair, rebuild and recovery of the district.</p> <p>Policy 8.5.2.4 : Earthworks design Ensure that earthworks over identified thresholds are designed to enable the anticipated land use.</p>	<p>Effectiveness Option 2 is considered more effective than Option 1 in achieving the objective as it will:</p> <ul style="list-style-type: none"> • Strengthen current policies to guide earthworks across the District. • Provide a more comprehensive and clear policy framework. • Manage repair of land damaged by earthquakes. • Supports housing initiatives by not requiring resource consent for earthworks where building consent has been granted. • Clarify and streamline notification and written approval requirements. <p>Efficiency Benefits</p> <ul style="list-style-type: none"> ▪ Stronger policies to earthworks across the District. ▪ Ensure appropriate recovery of the district in terms of earthworks. ▪ No anticipated increase in costs of compliance, including resource consent costs and processing times. ▪ Repair to land damaged by earthquakes is facilitated by provisions carried over from those inserted into the City Plan by the Minister for Earthquake Recovery. ▪ Does not stifle innovation or choice. ▪ Reduces reliance in resource consenting specifically for earthworks through exemptions and other mechanisms.

	<p>Costs</p> <ul style="list-style-type: none"> ▪ The thresholds set are conservative in some instances, particularly in residential areas. There are, however, a series of exemptions which reduce the effect of conservative thresholds. <p>Benefits are considered to outweigh the costs.</p>
Options less or not as appropriate to achieve the Objectives and policies:	
Option 1 (Status quo – current policies and rules)	<p>Appropriateness</p> <p>The existing policies and rules are not comprehensive and in the Banks Peninsula District Plan are not grouped or systematic. Some zones on the peninsula require consent as a non-complying activity for any amount of earthworks. Although some aspects of the existing framework are workable, as a whole it is not considered appropriate.</p> <p>It is noted that the thresholds in the existing plans are also conservative in the main and that the City Plan includes an exemption for works done under building consent, as is proposed in the draft Replacement District Plan.</p>
Risk of Acting or Not Acting	
The information available is considered sufficient to inform this aspect of the review. No significant changes in policy direction and proposed.	

6. BIBLIOGRAPHY

1. New Zealand Coastal Policy Statement
2. Canterbury Regional Policy Statement
3. Land Use Recovery Plan
4. Central City Recovery Plan
5. City Plan
6. Banks Peninsula District Plan
7. Banks Peninsula Landscape Study 2007
8. Evaluating the effectiveness and efficiency of the Banks Peninsula District Plan 2011
9. Evaluating the effectiveness and efficiency of the Christchurch City Plan 2011
10. National Policy Statement on Electricity Transmission 2008
11. National Environmental Standard for Electricity Transmission 2009
12. The National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health

13. Mahaanui Iwi Management Plan
14. Resource Management Act 1991
15. Local Government Act 1974 / 2002
16. Canterbury Earthquake Recovery Strategy
17. Hamilton District Plan
18. Proposed Auckland Unitary Plan
19. Proposed Hauraki District Plan
20. Proposed Waipa District Plan
21. Criteria for the Audit of Auckland Council's Section 32 Evaluation Report (MfE)
22. Christchurch City Council Infrastructure Design Standard
23. Christchurch City Council Construction Specification Standards
24. New Zealand Electrical Code of Practice for Electrical Safe Distances
25. Selwyn District Plan

APPENDIX 1: LINKAGES BETWEEN PROVISIONS

Linkages and grouping of provisions under proposed Policy Direction

Issue	Directions	Objectives	Policies	Rules	Assessment Matters
3.4.1 - Providing for the different needs of the community	3.4.1.1 Housing 3.4.1.2 Commerce and industry	Objective 8.5.1 Enable earthworks and manage their effects on significant natural and built features Objective 8.5.2 Health and safety	Policy 8.5.1.1 Enable earthworks and development Policy 8.5.1.2 Historic heritage Policy 8.5.1.3 Biodiversity and ecosystems Policy 8.5.1.4 Landscape Policy 8.5.1.5 Trees Policy 8.5.1.6 Waterway margins Policy 8.5.2.1 Land Stability Policy 8.5.2.4 Earthworks design	Rule 8.6.1 Activity Table – Earthworks Rule 8.6.3 Activity Standards: General Earthworks Rule 8.6.4 Exemptions to Rule 8.6.3 Rule 8.6.5 Earthworks under transmission lines Rule 8.6.6 Content of fill and excavation material Rule 8.6.7 Repair of land used for residential purposes damaged by earthquakes	8.7.1 Assessment Matters - Earthworks

Issue	Directions	Objectives	Policies	Rules	Assessment Matters
3.4.3 - Improving the quality of the urban environment		Objective 8.5.1 Enable earthworks and manage their effects on significant natural and built features Objective 8.5.2 Health and safety	Policy 8.5.1.2 Historic heritage Policy 8.5.1.3 Biodiversity and ecosystems Policy 8.5.1.4 Landscape Policy 8.5.1.5 Trees Policy 8.5.1.6 Waterway margins Policy 8.5.2.1 Land Stability Policy 8.5.2.4 Earthworks design	Rule 8.6.1 Activity Table – Earthworks Rule 8.6.3 Activity Standards: General Earthworks Rule 8.6.5 Earthworks under transmission lines Rule 8.6.6 Content of fill and excavation material Rule 8.6.7 Repair of land used for residential purposes damaged by earthquakes	8.7.1 Assessment Matters - Earthworks
3.4.4 - Protecting our key resources	3.4.4.3 Residential amenity 3.4.4.4 Health and safety of people and the environment	Objective 8.5.1 Enable earthworks and manage their effects on significant natural and built features	Policy 8.5.1.2 Historic heritage Policy 8.5.1.3 Biodiversity and ecosystems	Rule 8.6.1 Activity Table – Earthworks Rule 8.6.3 Activity Standards: General Earthworks	8.7.1 Assessment Matters - Earthworks

Issue	Directions	Objectives	Policies	Rules	Assessment Matters
	3.4.4.5 Natural and cultural heritage	Objective 8.5.2 Health and safety	Policy 8.5.1.4 Landscape Policy 8.5.1.5 Trees Policy 8.5.1.6 Waterway margins Policy 8.5.2.1 Land Stability Policy 8.5.2.4 Earthworks design	Rule 8.6.6 Content of fill and excavation material	
3.4.5- Addressing the consequences of natural hazards		Objective 8.5.2 Health and safety	Policy 8.5.1.1 Enable earthworks and development Policy 8.5.2.1 Land Stability Policy 8.5.2.4 Earthworks design	Rule 8.6.3 Activity Standards: General Earthworks Rule 8.6.6 Content of fill and excavation material Rule 8.6.7 Repair of land used for residential purposes damaged by earthquakes	8.7.1 Assessment Matters - Earthworks