14.7 RULES

Note: In considering a resource consent application under rules in this Plan, in the absence of specific policy in this Plan the Council may have regard to other policies related to assessment matters, including relevant policies in the Regional Policy Statement for Otago, and regional plans.

14.7.1 HERITAGE BUILDINGS, PLACES & OBJECTS

(a) Registered Items with NZ Historic Places Trust Category I Classification

(i) The removal or demolition of a building or structure identified in Part A of Schedule 19.4 as an item having a NZ Historic Places Trust classification of Category I is a non-complying activity.

(ii) Any alteration or addition (including any sign) to a building or structure identified in Part A of Schedule 19.4 as an item having a NZ Historic Places Trust classification of Category I is a discretionary activity.

(b) Registered Items with a NZ Historic Places Trust Category II Classification and Other Items Listed

(i) Any exterior alteration or addition (including any sign) to a building or structure identified in Part A of Schedule 19.4 as an item that has a NZ Historic Places Trust classification of Category II or is otherwise listed in Part A of Schedule 19.4 is a discretionary (restricted) activity.

Council shall restrict the exercise of its discretion to the effects the exterior alteration or addition will have on the heritage values of the item.

(ii) The removal or demolition of a building or structure identified in Part A of Schedule 19.4 as an item that has a NZ Historic Places Trust classification of Category II or is otherwise listed in Part A of Schedule 19.4 is a discretionary activity.

Reason

Items with a NZ Historic Places Trust classification of Category I are places of special or outstanding historical or cultural heritage significance or value. This is the highest classification in terms of the NZ Historic Places Trust. This has been recognised by identifying the removal or demolition of such items as a non-complying activity. Removal or demolition of heritage items that are not Category I and the alteration and addition to the Category I items has been identified as a discretionary activity as there may well be valid reasons why a heritage item needs to be demolished (for example, public safety) or altered (for example, to enable sympathetic use of a building).

Note: All items in Schedule 19.4 are identified on the planning maps.
14.7.2 **NOTABLE TREES**

(i) The removal of any tree identified in the register in Part B of Schedule 19.4 except where that tree has died of natural causes is a discretionary activity.

(ii) The following works that involve a tree or a group of trees listed in the register in Part B of Schedule 19.4 shall be a discretionary (restricted) activity:

(a) Significant trimming of the tree

Note: this does not include the regular or seasonal trimming or maintenance of any tree undertaken by hand operated secateurs or pruning shears in accordance with accepted arboricultural practices.

(b) The construction of any building or laying of overhead or underground services within the drip line of any identified tree whether on the site or not.

(c) Impervious paving within the drip line of any identified tree.

(d) The addition or excavation of soil within the drip line of any identified tree in a way that alters soils levels or the water table.

(e) Discharge or dispersal of any hazardous substance within the drip line of any identified tree.

Council shall restrict the exercise of its discretion to:

1. The impact on the health of the tree.
2. The effect on the form and appearance of the tree.
3. Issues of public safety.
4. Values of the tree as described in Clause 14.5.2.

**Reason**

Discretionary activity status for removal of such trees will allow full consideration of the effect the removal will have on amenity values of the neighbourhood.

Works that do not remove the tree but which will impact on a listed tree have been identified as discretionary (restricted) activities. This enables consideration of resource consent applications to focus on the health of the tree, the appearance of the tree and public safety. Where such works are minor or essential for public safety notification would not be needed.

14.7.3 **HISTORIC RESERVES**

Any work or activity (including the renovation or restoration of historic buildings or structures) undertaken by persons or bodies (including the Crown) on or within the land identified in Schedule 19.10 as an historic reserve or protected private land for historic purposes or land held or managed under the Conservation Act 1987 and those other Acts specified in the First Schedule of that Act for historic purposes, is a permitted activity provided that,
1. Such works are consistent with the particular Act under which the land is held, or any management strategy or plan developed under that Act.

2. Such works are consistent with the general rules of this plan and the rules of the Resource Area that applies to the site.

3. Notice is given to Council at least 20 working days prior to the carrying out of any such work or activity that outlines the intention and nature of the work or activity and how it complies with the matters referred to in this rule, at least 20 working days prior to the commencement of the work or activity.

Any activity that does not comply with this rule and the erection of any building on an historic reserve or protected private land for historic purposes shall be considered as a discretionary activity.

Reason
The rules relating to resource use within these lands are generally set out by the relevant Act. Therefore Council need only intervene when the objectives of the Act are not being achieved or there is a significant effect generated outside the boundary of the land concerned.

14.7.4 ARCHAEOLOGICAL SITES AND WAAHI TAPU (SACRED SITES)

(i) Archaeological Sites
Where any activity disturbs or identifies the presence of an archaeological site, all work shall cease, and the following process shall be followed:

(a) Where the site is registered or the find or site includes koiwi tangata (unidentified human remains) Rule 14.7.4 (ii) and/or (iii) shall apply.

(b) Where the site is not registered or koiwi tangata do not occur, the provisions of sections 9 to 21 of the Historic Places Act 1993 shall apply.

(ii) Registered Sites (refer Part A - Schedule 19.4)
Any activity that is likely to modify or disturb or affect any archaeological site or waahi tapu site listed in Part A of Schedule 19.4 shall be considered as a non-complying activity.

Note: the provisions of sections 9 to 21 of the Historic Places Act 1993, will also apply to these activities.

(iii) Koiwi Tangata (unidentified human skeletal remains)
Where koiwi tangata are found, disturbed or unearthed the work or activity shall immediately cease and the following course of action shall be adopted:

(a) Contact the office of Kai Tahu ki Otago Limited or any point of contact that may be agreed from time to time (see Clause 3.8 page 3:15 for contact details).
(b) Contact the New Zealand Police.
(c) Contact the NZ Historic Places Trust.

The subsequent procedure for managing the find shall be in accordance with Kai Tahu Koiwi Tangata (Human Remains) Policy June 1993 (see reference in Reason below) as exercised by the appropriate runanga and also with the requirements of the Historic Places Act 1993.

If the runanga agrees that the remains should be removed, then this shall be completed under appropriate tikanga by the runanga. (Note: No resource consent is necessary for this process. The requirements of the Historic Places Act 1993 apply.)

Reason
Registered archaeological sites represent the most significant examples of archaeological sites in the District while waahi tapu are of extreme importance to Iwi. Urupa (burial sites) are the most important of all waahi tapu. While Urupa are given protection under the Historic Places Act 1993, the Maori Affairs Act 1953 and the Resource Management Act, these Acts can be overridden by other legislation and consequently there is no absolute protection that Kai Tahu consider appropriate.

Part A of Schedule 19.4 includes known waahi tapu sites in the District. With respect to waahi tapu and/or waahi taoka not listed in Part A of Schedule 19.4 or discovered once work has commenced, the protocol between Kai Tahu ki Otago and the Council will be followed. The protocol emphasises the importance of consultation between applicants and Kai Tahu ki Otago, and pre-application consultation is encouraged. With respect to Koiwi Tangata Kai Tahu’s policy for dealing with the remains of their ancestors prevail. This is set out in the Koiwi Tangata (Human Remains) Policy June 1993 (see page 144 of the Kai Tahu Ki Otago Natural Resource Management Plan – 1995) and will be implemented by the relevant runanga.

A resource consent is only needed where archaeological sites are listed in Part A of Schedule 19.4. In all other circumstances the process to be followed is set down by the Historic Places Act. The plan identifies this process for the information of resource users.