

OFFICER'S REPORT FOR:

Hearing Panel

SUBJECT:

Proposed Waimakariri District Plan:
Matū mōrearea - Hazardous Substances AND
Whenua paitini - Contaminated Land

PREPARED BY:

Jessica Anneka Manhire

REPORT DATED:

15 May 2023

DATE OF HEARING:

Hearing Stream 3 (25 July 2023)



WAIMAKARIRI
DISTRICT COUNCIL

Executive Summary

1. This report considers submissions received by the District Council in relation to the relevant objectives, policies, rules, and definitions of the Proposed Plan as they apply to the chapters Hazardous Substances and Contaminated Land. The report outlines recommendations in response to the issues that have emerged from these submissions.
2. The Hazardous Substances and Contaminated Land s42As have been combined due to the small scale and interrelatedness of the issues.
3. There were eight submissions, 48 submission points and one further submission received on Hazardous Substances. There were six submissions, 33 submission points and five further submissions received on Contaminated Land. The submissions received generally supported the notified plan provisions, some amendments to provisions were sought, and one submitter sought deletion of two Contaminated Land policies.
4. The Hazardous Substance Chapter addresses risk that is not controlled by zone provisions, Regional Council or other legislation such as HSNO, HSWA, Health and Safety at Work (Major Hazard Facilities) Regulations 2016, and Health and Safety at Work (Hazardous Substances) Regulations 2017. This includes the location of major hazard facilities using or storing hazardous substances, the location of sensitive activities and locations in areas that are prone to natural hazards.
5. The Contaminated Land Chapter does not contain any rules for the subdivision, use or development of contaminated land as this is regulated under the NESCS. The District Plan does, however, provide the relevant objectives and policies relating to contaminated land, as none are provided by the NESCS.
6. The following are considered to be the key issues in contention in the chapters:

Hazardous substances

- The contribution hazardous substances make to economic and social wellbeing is not adequately recognised in the objectives.
- There may be other natural hazards relevant to risk from hazardous substances, in addition to flood hazards.

Contaminated land

- Alignment with the National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health.
- Submitters consider it would be helpful to consider additional information known from Waimakariri District Council's records to identify contaminated land.
- Providing an objective to recognise the positive effects associated with the remediation of contaminated soils.
- Providing a policy to discourage the creation of contaminated land.
- "Natural values" is not defined and there may be other values helpful to consider.

- The risk or effects associated with earthworks and/or disturbance can be appropriately addressed by CL-P2 and deletion of CL-P3 is sought.
 - The intent of CL-P4 (good environmental practices to manage risk and effects) is provided by CL-P2 and landfill activities are more appropriately dealt with under zone provisions.
7. This report addresses each of these matters, as well as any other issues raised by submissions.
8. Generally, I have recommended to retain the provisions as proposed. However, I have recommended some minor wording changes to the Proposed Plan provisions to address matters raised in submissions and are summarised below:

Hazardous Substances

- Referring to natural hazards (rather than just flood hazard/event) in the Hazardous Substances Chapter Introduction and HS-O1. HS-P3 also applying to the High Coastal Flood Hazard Area and HS-R1 to Coastal Flood Assessment Overlay.
- Amendment to HS-O1 to recognise the contribution hazardous substances can make to economic and social wellbeing.
- Deletion of the word “property” from HS-O1 and HS-P1 which is considered to be part of the environment.
- Amendments to the Hazardous Substances Introduction and HS-P1 to reflect the outcome sought by a submitter to EI-R51.

Contaminated land

- Amendments to the Contaminated Land Introduction to be consistent with the NESCS and accurately reflect regional council responsibilities relating to discharges.
 - Amend CL-P1 to also refer to District Council records (not just the ECan Listed Land Use Register).
 - Amend CL-P2 to refer to the “good practice” approach which is referred to in the Ministry for the Environment contaminated land management guidelines.
 - Amend CL-P3 to refer to “ecological values”.
 - Delete CL-P4 – Disposal of contaminated soil.
9. Having considered all the submissions and reviewed all relevant statutory and non-statutory documents, I recommend that the Proposed Plan should be amended as set out in **Appendix A1** – Hazardous Substances chapter and **Appendix A2** – Contaminated Land chapter of this report.
10. For the reasons set out in the Section 32AA evaluation included throughout this report, I consider that the proposed objectives and provisions, with the recommended amendments, will be the most appropriate means to:
- achieve the purpose of the RMA where it is necessary to revert to Part 2 and otherwise give effect to higher order planning documents, in respect to the proposed objectives, and
 - achieve the relevant objectives of the Proposed Plan, in respect to the proposed provisions.

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Interpretation

11. This s42A report utilises a number of abbreviations for brevity as set out in Table 1 and Table 2 below:

Table 1: Abbreviations

Abbreviation	Means
RMA	Resource Management Act 1991
District Council	Waimakariri District Council/territorial authority
Proposed Plan	Proposed Waimakariri District Plan
ECan	Environment Canterbury/Canterbury Regional Council
LLUR	Environment Canterbury Listed Land Use Register (of land potentially contaminated by the storage, use or disposal of hazardous substances)
MHF	Major Hazard Facility
NESCS	National Environmental Standards for Assessing and Managing Contaminants in Soil to Protect Human Health 2011
QRA	Quantitative Risk Assessment
RPS	Operative Canterbury Regional Policy Statement

Table 2: Abbreviations of Submitters' and Further Submitters' Names

Abbreviation	Means
CIAL	Christchurch International Airport Ltd
CIL	Clampett Investments Limited
ECan	Environment Canterbury / Canterbury Regional Council
Forest and Bird	Royal Forest and Bird Protection Society
Fuel Companies	Z Energy Limited, BP Oil New Zealand Limited, Mobil Oil New Zealand Limited
HortNZ	Horticulture NZ
Kainga Ora	Kainga Ora - Homes and Communities
Mainpower	Mainpower New Zealand Ltd
RIDL	Rolleston Industrial Developments Limited
Transpower	Transpower New Zealand Ltd

1 Introduction

1.1 Purpose

12. The purpose of this report is to provide the Hearing Panel with a summary and analysis of the submissions received on the Hazardous Substances and Contaminated Land chapters and to recommend possible amendments to the Proposed Plan in response to those submissions.
13. This report is prepared under section 42A of the RMA. The report outlines recommendations in response to the key issues that have emerged from these submissions.
14. This report discusses general issues or topics arising, the original and further submissions received following notification of the Proposed Plan, makes recommendations as to whether or not those submissions should be accepted or rejected, and concludes with a recommendation for changes to the Proposed Plan provisions based on the preceding discussion in the report.
15. In preparing this report the author has had regard to recommendations made in other related s42A reports including Energy and Infrastructure, Natural Hazards and Earthworks.
16. This report is provided to assist the Hearing Panel in their role as Independent Commissioners. The Hearing Panel may choose to accept or reject the conclusions and recommendations of this report and may come to different conclusions and make different recommendations, based on the information and evidence provided to them by submitters.
17. This report is intended to be read in conjunction with *Officers' Report: Overarching and Part 1 matters* which contains factual background information, statutory context and administrative matters pertaining to the district plan review and Proposed Plan.

1.2 Author

18. My name is Jessica Anneka Manhire. My qualifications and experience are set out in **Appendix C** of this report.
19. My role in preparing this report is that of an expert planner.
20. I was involved in the preparation of the Proposed Plan and contributed to or prepared the Section 32 Evaluation Reports for Hazardous Substances, and Contaminated Land.
21. Although this is a District Council Hearing, I have read the Code of Conduct for Expert Witnesses contained in the Practice Note issued by the Environment Court December 2023. I have complied with that Code when preparing my written statement of evidence and I agree to comply with it when I give any oral evidence.
22. The scope of my evidence relates to the Hazardous Substances and Contaminated Land chapters. I confirm that the issues addressed in this statement of evidence are within my area of expertise as an expert policy planner. For submissions that relate to the Natural Hazards overlays or consequential amendment to the Energy and Infrastructure chapter, I have sought advice from the District Council officers for those chapters to respond to the submissions and at the time of writing this report my recommendations are consistent with the preliminary recommendations within the draft s42A reports.

23. Any data, information, facts, and assumptions I have considered in forming my opinions are set out in the part of the evidence in which I express my opinions. Where I have set out opinions in my evidence, I have given reasons for those opinions.
24. I have not omitted to consider material facts known to me that might alter or detract from the opinions expressed.

1.3 Supporting Evidence

25. The material which I have used or relied upon in support of the opinions expressed in this report includes the following:
- Ministry for the Environment (2010), *Proposed National Environmental Standard for Assessing and Managing Contaminants in Soil: Discussion Document*. Retrieved from <https://environment.govt.nz/assets/Publications/Files/proposed-nes-soil-contamination.pdf>

1.4 Key Issues in Contention

26. The Hazardous Substances Chapter received 44 submission points from eight submitters. One further submission was received. There were no submissions opposing any of the provisions, but some sought amendments.
27. The Contaminated Land Chapter received 30 submission points from six submitters. Five further submissions were received. Some amendments were sought, and one submitter opposes CL-P3 and CL-P4.
28. I consider the following to be the key issues in contention in the Hazardous Substances Chapter:
- There may be other natural hazards relevant to risk from hazardous substances, in addition to flood hazards.
 - The contribution hazardous substances can make to economic and social wellbeing is not adequately recognised in the objectives.
29. I consider the following to be the key issues in contention in the Contaminated Land Chapter:
- Alignment with the National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health.
 - It would be helpful to consider additional information known from Waimakariri District Council's records to identify contaminated land.
 - Providing an objective to recognise the positive effects associated with the remediation of contaminated soils.
 - Providing a policy to discourage the creation of contaminated land.
 - "Natural values" is not defined and there may be other values helpful to consider.
 - The risk or effects associated with earthworks and/or disturbance can be appropriately addressed by CL-P2 and deletion of CL-P3 is sought.

- The intent of CL-P4 (good environmental practices to manage risk and effects) is provided by CL-P2 and landfill activities are more appropriately dealt with under zone provisions.

30. I address each of these key issues in this report, as well as any other issues raised by submissions.

1.5 Procedural Matters

31. At the time of writing this report there have not been any pre-hearing conferences, clause 8AA meetings or expert witness conferencing in relation to submissions on Hazardous Substances and Contaminated Land.

2 Statutory Considerations

2.1 Resource Management Act 1991

32. The Proposed Plan has been prepared in accordance with the RMA and in particular, the requirements of:

- section 74 Matters to be considered by territorial authority, and
- section 75 Contents of district plans,

33. There are a number of higher order planning documents and strategic plans that provide direction and guidance for the preparation and content of the Proposed Plan. There have been no changes in national direction relevant to Hazardous Substances and Contaminated land since notification of the Proposed Plan. These documents are discussed in detail within the following Section 32 Evaluation Reports:

- Hazardous Substances
- Contaminated Land

2.2 Section 32AA

34. I have undertaken an evaluation of the recommended amendments to provisions since the initial section 32 evaluation was undertaken in accordance with s32AA. Section 32AA states:

32AA Requirements for undertaking and publishing further evaluations

(1) A further evaluation required under this Act—

(a) is required only for any changes that have been made to, or are proposed for, the proposal since the evaluation report for the proposal was completed (the changes); and

(b) must be undertaken in accordance with section 32(1) to (4); and

(c) must, despite paragraph (b) and section 32(1)(c), be undertaken at a level of detail that corresponds to the scale and significance of the changes; and

(d) must—

(i) be published in an evaluation report that is made available for public inspection at the same time as the approved proposal (in the case of a national policy statement or a New Zealand coastal policy statement or a national planning standard), or the decision on the proposal, is notified; or

(ii) be referred to in the decision-making record in sufficient detail to demonstrate that the further evaluation was undertaken in accordance with this section.

(2) To avoid doubt, an evaluation report does not have to be prepared if a further evaluation is undertaken in accordance with subsection (1)(d)(ii).

35. The required section 32AA evaluation for changes proposed as a result of consideration of submissions with respect to Hazardous Substances and Contaminated Land is contained within the assessment of the relief sought in submissions in section 3 of this report, as required by

s32AA(1)(d)(ii). I have taken this approach due to what I consider to be the limited scale and significance of the recommended changes.

2.3 Trade Competition

36. Trade competition is not considered relevant to the Hazardous Substances and Contaminated Land provisions of the Proposed Plan.
37. There are no known trade competition issues raised within the submissions.

3 Consideration of Submissions and Further Submissions

3.1 Overview

38. The Hazardous Substances Chapter received eight submissions and one further submission. There were no submissions opposing any of the provisions.
39. The Contaminated Land Chapter received six submissions and five further submissions. One submitter opposes and seeks deletion of CL-P3 and CL-P4. One submitter seeks a new objective and one seeks a new policy.
40. All provisions under both chapters received submissions.
41. There were also general submissions by further submitters in opposition or support of the whole submission by original submitters. These further submissions have not been assessed against specific submission points because of the generic nature of the submissions. This includes CIAL FS80 on HortNZ submission 295, Miranda Hales FS46 on Kainga Ora submission 325 ~~and~~, Richard and Geoff Spark FS37 on ECan submission 316, and David Cowley FS41 on ECan submission 316 which did not contain any material relevant to the Hazardous Substances or Contaminated Land Chapters. I have not considered these further in this report.

3.1.1 Report Structure

42. Submissions on Hazardous Substances and Contaminated Land raised issues which have been grouped into two sub-topics within this report. Some of the submissions are addressed under topic headings based on the topics contained in the submission. I have considered substantive commentary on primary submissions contained in further submissions as part of my consideration of the primary submission(s) to which they relate in the assessment in the body of the report.
43. There were a low number of submissions on the Hazardous Substances Chapter. As only two main submitters sought a number of amendments to the Hazardous Substances Chapter, and similar matters were raised for a number of provisions, I consider that it is logical to consider the submissions as a whole, rather than on a topic or provision basis. Therefore, the Hazardous Substances evaluation has been grouped by submitter. For context, other submissions on the same provisions are also discussed within the assessment. For example, submissions that are in support or that seek other amendments to be considered in relation to the other submission.
44. In accordance with Clause 10(3) of the First Schedule of the RMA, I have undertaken the evaluation on Contaminated Land on both an issues and provisions-based approach, as opposed to a submission by submission approach.
45. Due to the low number of submission points, this evaluation is generic only and may not contain specific recommendations on each submission point, but instead discusses the issues generally. This approach is consistent with Clause 10(2)(a) of Schedule 1 to the RMA. For example, my assessment on Transpower submission points [195.54, 195.55], in regards to the National Grid Yard, have not been included in the body of the report due to the small scale of the issue. My recommendation on these submissions can be found in **Appendix B** along with specific recommendations on each submission/further submission point.
46. The following evaluation should be read in conjunction with the summaries of submissions and the submissions themselves. Where I agree with the relief sought and the rationale for that relief, I have noted my agreement, and my recommendation is provided in the recommended responses

to submissions and further submissions tables in **Appendix B**. Where I have undertaken further evaluation of the relief sought in a submission(s), the evaluation and recommendations are set out in the body of this report. I have provided a marked-up version of the chapter with recommended amendments in response to submissions as **Appendix A**.

47. This report only addresses definitions that are specific to this topic. Definitions that relate to more than one topic have been addressed in the most relevant hearings report. As all submissions on the definitions specific to this topic were in support I have not recommended any changes from the notified definitions, my recommendations can be found in **Appendix B**.

3.1.2 Format for Consideration of Submissions

48. For each identified topic, I have considered the submissions that are seeking changes to the Proposed Plan in the following format:

- Matters raised by submitters;
- Assessment;
- Summary of recommendations; and
- Section 32AA evaluation (where amendments are recommended)

49. The recommended amendments to the relevant chapters are set out in in **Appendix A1 and Appendix A2** of this report where all text changes are shown.

50. I have undertaken a s32AA evaluation in respect to the recommended amendments in the body of my assessment where I have recommended amendments to provisions, due to what I consider to be the limited scale and significance of the recommended changes.

3.2 Hazardous Substances - Fuel Companies and Other submission points

3.2.1 Matters raised by submitters

51. Z Energy Limited, BP Oil New Zealand Limited, Mobil Oil New Zealand Limited (The Fuel Companies) [276.2] consider the proposed objectives do not adequately recognise hazardous substance's contribution to economic and social wellbeing.

Objective HS-01

52. The Fuel Companies seek clarity for the term 'flood events' and note that both 'managed' and 'minimised' are used in Objective HS-01.
53. They also consider as 'property' is part of the environment it does not need to be specifically identified.
54. There were three submission points in support of HS-01 (Woodstock Quarries Limited [46.3], Clampett Investments Limited (CIL) [284.126], and Rolleston Industrial Developments Limited (RIDL) [326.130]) and two seeking amendment The Fuel Companies [276.2] and ECan [316.34].

Objective HS-02

55. The Fuel Companies [276.3] is the only submission point seeking amendment to HS-02 and support its intent but consider it should be simplified and not just applied to the establishment of new Major Hazard Facilities (MHF), recognising that ongoing management of these matters is important. It seeks the objective be amended as follows:

~~"The location of any new sensitive activity minimises reverse sensitivity effects on any existing major hazard facility, and avoids unacceptable risk to the sensitive activity."~~

Avoid unacceptable risk from the establishment or intensification of sensitive activities and otherwise minimise reverse sensitive effects on major hazard facilities."

56. There were four submission points in support of HS-02 [145.19, 284.127, 316.35, 326.131] due to reverse sensitivity impacts.

Policy HS-P1

57. Fuel Companies [276.4] also seek amendment to HS-P1 as the proposed wording would trigger a Quantitative Risk Assessment for additions to existing MHF including for changes which would not increase the risk profile, for instance new or extended buildings. The wording also seeks to avoid new MHF in overlays and zones where sensitive areas or activities predominate, and the Fuel Companies consider that this will be achieved by provisions relating to those overlays and zones and need not be specified in the Hazardous Substances Chapter. Three submission points supported the notified version of HS-P1 [284.128, 316.36, 326.132] and two seek amendment [195.55, 276.4]. ECan [316.36] supports the location of new major hazard facilities within any high hazard if the risk can be appropriately mitigated.

Policy HS-P2

58. Fuel Companies [276.41] seek amendment to HS-P2 for consistency with requested amendments to other provisions. There were four submissions in support of HS-P2 [145.20, 284.129, 316.37, 326.133]. Daiken New Zealand [145.20] support HS-P2 as it recognises the potential for reverse sensitivity impacts on sites holding hazardous substances and needs to be retained and ECan [316.37] support the strategic locating of sensitive activities to avoid reverse sensitivity effects on Major Hazard Facilities. The amendments sought by the Fuel Companies retains the reference to "minimise reverse sensitivity effects".

Rule HS-R1

59. Fuel Companies [276.5] requested HS-R1 to only apply to above ground storage of hazardous substances, noting that underground facilities, like petroleum storage at service stations are resilient to inundation.

Rule HS-R2

60. The Fuel Companies [276.6] seek amendment to HS-R2 to reflect the requested changes to HS-P1 and HS-P2 outlined above. Three submission points support HS-R2 [284.132, 316.40, 326.136]. ECan support HS-R2 as it is consistent with the RPS.

3.2.2 Assessment

Objective HS-O1

61. I agree the objectives do not adequately recognise hazardous substance's potential contributions to economic and social wellbeing. The purpose of the objective, as set out in the s32 evaluation, was to minimise risk through location of hazardous substances and not to prevent the activities occurring. Therefore, the addition of "enabled and" would still achieve the purpose of the objective. Rules require major hazard facilities to be located to minimise this risk. The objectives and policies of RPS Chapter 18 - Hazardous Substances seek to avoid, remedy or mitigate adverse effects. The introduction to Chapter 18 states that "hazardous substances are vital to the social, cultural and economic well-being of people and communities, as well as the maintenance and enhancement of the quality of the environment" (p.230). The purpose of the RMA also includes social and economic well-being. Therefore, I recommend these words are added to HS-O1.

62. 'Flood event' is specified elsewhere in the plan, in HS-MD1(3), and aligns with the Proposed District Plan definition of High Flood Hazard Area and the RPS definition of High Hazard Area. Locating an advisory note about how flood event is defined directly with Objective HS-O1, may improve clarity/usability of the plan, however it may become outdated and create confusion if the RPS definition was amended and, as it is clarified elsewhere, I recommend not including an advisory note.

63. The Fuel Companies seek deletion of the words "and in the case of flood events, managed". I have confirmed with the submitter the reason for seeking deletion of this text as this was not identified in the submission. The submitter considers the inclusion of this text in the opening sentence has no relevance in achieving the specific outcomes sought in clauses (1) and (2) of the objective, only clause (3). They stated that in their opinion it is cleaner and clearer to have any specific outcome relating to flood events be a subset or criteria of the overarching objective to locate (and enable) hazardous substances (where risk to land and water as a result of flood events is managed). I consider the objective is not intended to apply only to flood risks as all three of the clauses also

apply to the first part of the objective before the colon. This part of the Objective is given effect to by HS-R1 - the risk from flooding is managed through the location of hazardous substances (at, or above the finished floor level). However, I agree that it is repetitive and would be cleaner if the repetition was deleted since it is covered by clause 3.

64. I disagree with the Fuel Companies that HS-O1(3) be amended from “~~managed~~minimised” to “~~minimised~~managed”. Policies provide direction on how to achieve minimisation, particularly HS-P1 and this is implemented through the rules.
65. I agree with the submitter that ‘property’ referred to in HS-O1 and HS-P1 is part of the environment. The RMA definition of ‘environment’ includes all natural and physical resources [emphasis added].

Objective HS-O2

66. The notified versions of HS-O2 and HS-P1 are more specific than the wording sought by the submitter, as they refer specifically to “location” of sensitive activities in relation to major hazard facilities (HS-O2) or “location” of major hazard facilities in relation to sensitive activities (HS-P1) which is implemented through the rules, specifically HS-R3 which minimises reverse sensitivity effects through the location of sensitive activities and not the intensification of them. The submitter has not requested any changes to or deletion of HS-R3 but supports HS-R3 which implements this objective and policy [276.7]. Therefore, I consider HS-O2 should be retained as notified.

Policy HS-P1

67. The Fuel Companies seek amendment of HS-P1(2) and deletion of HS-P1(3), which seeks to minimise risk by locating major hazard facilities outside locations where sensitive areas or activities predominate. However, this policy is given effect to through the Hazardous Substances rules and would result in rules without an associated policy. It is unclear how it will be achieved by "provisions relating to those overlays and zones", as these do not deal with hazardous substances. As discussed in the s32 evaluation report for Hazardous Substances, the District Plan manages residual risk. This includes the impact on sensitive areas, which HS-P1(3) addresses. The policy gives effect to Chapter 18 of the RPS. In particular, Policy 18.3.1 of the RPS requires the avoidance of actual or potential adverse effects from the storage and use of hazardous substances on a number of sensitive locations. Therefore, I recommend these requested amendments are rejected.
68. HS-P1 as drafted is more directive than sought by submission point 276.4 as it is unclear what a risk profile is and how it is determined. The trigger of 'addition' is measurable and allows the risk profile to then be assessed.
69. As there is only one MHF in the district, the likelihood of requiring a Quantitative Risk Assessment (QRA), a type of risk analysis for any new or addition to a MHF, is low even if additional MHF establish in the future. It is unlikely many would meet the threshold to be classified as a MHF under the Health and Safety at Work (Major Hazard Facilities) Regulations 2006 due to the level of the thresholds and the fact that only one facility in the district has met these. At this point in time, there is insufficient evidence to justify requiring an appropriate risk assessment rather than a QRA in HS-P1.

Rule HS-R1

70. When drafting the Hazardous Substances Chapter and preparing the s32; discussion with ECan and Hazardous Substances professionals, revealed there was a legislative gap in relation to storage in flood prone areas. Fuel Companies requested HS-R1 only apply to above ground storage of hazardous substances. While I recognise that underground petroleum facilities designed and installed in accordance with the Codes of Practices HSNOCOP 44 and HSNOCOP 45¹ may be resilient to inundation, the risk is only minimised and there is still residual risk. HSNO codes of practice are not mandatory but provide guidance for how to meet legislative requirements under HSNO, HSWA and the Health and Safety at Work (Hazardous Substances) Regulations 2017.²³ Even if the codes of practice are met, it does not account for the residual risk of tanks that are not covered by the legislation e.g. do not meet thresholds or that store other substances e.g. biofuels.

3.2.3 Summary of recommendations

70. I recommend that the submission points from Daiken New Zealand [145.19], Daiken New Zealand [145.20], Transpower [195.55], Fuel Companies [276.7], CIL [284.127], CIL [284.129], CIL [284.132], RIDL [326.131], RIDL [326.133] and RIDL [326.136] be **accepted**.
71. I recommend that submission points from Woodstock Quarries [46.3], Fuel Companies [276.2], Fuel Companies [276.4], Fuel Companies [276.42], CIL [284.126], CIL [284.128], ECan 316.36, RIDL [326.130], and RIDL [326.132] be **accepted in part**.
72. I recommend that the submission points from the Fuel Companies [276.1, 276.3, 276.5, 276.6 and 276.41] be **rejected**.
73. Recommendations on ECan submissions [316.34, 316.35, 316.37 and 316.40], which have been addressed above regarding Fuel Companies submission points on HS-O1, HS-O2, HS-P1, HS-R2, are provided in section 3.3.3 on ECan submission points below.
74. I recommended HS-O1 and HS-P1 be amended as set out in **Appendix A1**.

Section 32AA evaluation – HS-O1

75. In my opinion, the recommended amendments to HS-O1 are the most appropriate way to achieve the purpose of the Act.
76. In particular, I consider that the recommended amendments are minor wording changes, in response to the Fuel Companies submission point 276.2 that will not have any greater environmental, economic, social, and cultural effects than the notified provisions but will more appropriately give effect to higher order documents, including the RPS, and remove repetition.

¹ HSNOCOP 44 provides a means for the design and installation of below ground stationary container systems for petroleum to minimise the possibility of a substance release from a below ground stationary container system. HSNOCOP 45 provide a means of operation of below ground stationary container systems for petroleum in order to minimise the possibility of substance releases.

² <https://www.epa.govt.nz/industry-areas/hazardous-substances/rules-for-hazardous-substances/codes-of-practice-for-hazardous-substances/>

³ <https://www.worksafe.govt.nz/topic-and-industry/hazardous-substances/guidance/hazardous-substances-cop/>

77. With the addition of the words “enabled and”, it enables people and communities to provide for their social, economic, and cultural well-being while still achieving the purpose of the objective being to manage residual risk of hazardous substances. The objective would continue to be given effect to by, and achieve consistency with, the associated policies and rules which aim to minimise risk through the location of hazardous substances.

Section 32AA evaluation – HS-P1

78. In my opinion, the recommended amendment to HS-P1, in response to the Fuel Companies submission point 276.4, are minor wording changes that will not have any greater environmental, economic, social, and cultural effects than the notified provisions but will improve plan interpretation. The proposed amended provision will also continue to give effect to Objective HS-O1 and HS-O2. The recommended amendment is more consistent with HS-O1 by deletion of the word ‘property’ in both, which is covered by the definition of the environment under the RMA.

3.3 Hazardous Substances - ECan submission points

3.3.1 Matters raised by submitter

79. ECan [316.33, 316.38, 316.39, 316.42] seeks amendment to the Introduction, HS-O1, HS-P2, HS-R1 and HS-MD1 to refer broadly to natural hazards, rather than specifically flood hazards. ECan points out that flood hazards are not necessarily the only ones that could introduce a degree of risk from contamination when hazardous substances are stored on site. The RPS references high hazard areas in general (which includes areas subject to coastal erosion and inundation) rather than specifically just to areas at risk of flooding.

3.3.2 Assessment

Objective HS-O1

80. HS-O1, provides specific direction for hazardous substance activities in relation to flooding, which follows through into the rule framework. As covered throughout the s32 evaluation report for Hazardous Substances, the chapter addresses the residual risk from hazardous substances that is not covered by other legislation e.g. the Building Act 2004 and HSNO. In addition, as discussed in the Natural Hazards Chapter and s32 evaluation report for Natural Hazards, modelling indicates that the District is not susceptible to coastal erosion over the next 100 years, even when accounting for climate change, and as such the District Plan does not contain provisions for this hazard. However, replacing “flood events” with “natural hazards” in HS-O1 clause 3 will provide for any unanticipated residual risk and give effect to the RPS policies 18.3.1, 18.3.2. I recommend this is followed by “including flood events” as this gives specific direction which is then given effect to through the rules. I consider the same could have been achieved by retaining the text in the overarching sentence “*and in the case of flood events managed*” and replacing “flood events” with “natural hazards” here. However, amending as recommended avoids repetition as sought by Fuel Companies submission point 276.2, and still achieves the purpose of the objective and the outcome submitters are seeking.

81. HS-P3 refers to flood hazards to give effect to HS-O1 and is implemented through the rules. It aligns with the Natural Hazards Chapter by referring to the natural hazard overlays. The High Coastal Flood Hazard Area has been addressed by the Hazardous Substances rules and could be referred to in the policy and I recommend the policy also addresses sea water inundation.

Rule HS-R1

82. HS-R1 as currently drafted is specific and achievable as it refers to actual layers in the plan and is consistent with the Natural Hazards Chapter. However, I recommend the rule is amended to also apply to the Coastal Flood Assessment Overlay as this can then be implemented through the plan framework. I also recommend the reference to the Kaiapoi Fixed Minimum Finished Floor Level Overlay is deleted from HS-P3 and HS-R1 to be consistent with the recommendation in the Natural Hazards s42A, which is to replace this overlay with the Urban Flood Assessment Overlay which is already referenced in HS-P3 and HS-R1 as notified (Natural Hazards s42A, section 3.3).

Matter of discretion HS-MD1

83. HS-MD1 does refer generally to natural hazards and provides specific guidance for flood events. HS-MD1(1) covers any risk from natural hazards to people's lives, as a QRA can analyse any risk including from natural hazards. HS-MD1(3) covers any natural hazard areas identified in the plan. HS-MD1(4)(a) (probability and potential consequences of an accident leading to the loss of control of hazardous substances) can also apply to natural hazards not covered by other legislation. Any other natural hazard risk is covered by HS-MD1(2) (Proposed mitigation in relation to risk identified by the QRA that are not controlled by other legislation or regional council functions) also addresses potential issues from other natural hazards. The Building Act manages natural hazards in relation to the construction and modification of buildings. HSNO has regulations for storage e.g. above ground stationary tanks for hazardous liquids are installed on foundations that will prevent subsidence. Therefore, land deformation associated with earthquakes is not a residual risk that requires identification within the plan. I consider the matter of discretion provides sufficient scope to apply to any residual risk of hazardous substances from natural hazards.

84. I accept that some amendments can be made to refer to natural hazards more generally including in the Introduction and HS-O1, and that HS-P3 and HS-R1 can be amended to apply to coastal flood hazards.

3.3.3 Summary of recommendations

85. I recommend that the submission points from ECan [316.33, 316.34, 316.35, 316.37, 316.40, and 316.41] be **accepted**.

86. I recommend that submission points from ECan [316.36, 316.38, and 316.39] be **accepted in part**.

87. I recommend that submission point from ECan [316.42] be **rejected**.

88. I recommended that the Hazardous Substances Introduction, HS-O1, HS-P3, and HS-R1 be amended to refer more broadly to natural hazards as set out in **Appendix A1**.

3.3.4 Section 32AA evaluation

89. In my opinion, the amendments to HS-O1 are a more appropriate way to achieve the purpose of the Act.
90. In particular, I consider that the recommended amendments will not have any greater environmental, economic, social, and cultural effects than the notified provisions. However, they manage residual risk, are implemented through the provisions, and more appropriately give effect to the RPS.
91. In my opinion, the amendments to the Introduction, HS-P3 and HS-R1 are more appropriate in achieving the objectives of the Proposed Plan, including amended HS-O1, than the notified provisions.
92. In particular, I consider that the recommended amendments will not have any greater environmental, economic, social, and cultural effects than the notified provisions. However, they achieve consistency with the Natural Hazards Chapter, can be implemented through the plan framework, manage residual risk and more appropriately give effect to the RPS.

3.4 Contaminated Land - Consistency with the NESCS Submissions

3.4.1 Matters raised by submitters

93. Two submitters raised NESCS-related matters.
94. Fuel Companies [276.12] sought amendments to CL-O1 as they consider the use of “adversely affect” does not appropriately enable outcomes where adverse effects may be acceptable.
95. Kainga Ora [325.94] also seeks amendment to CL-O1 as they are concerned the application of the NESCS is broadened by referencing the environment and seek amendment to make the connection to the NESCS clearer.
96. Fuel Companies [276.13] seek amendment to CL-P2 to better reflect that remediation is one of a range of options to help manage contaminated land and to ensure that the policy intent aligns with the NESCS, noting that the NESCS does not require avoidance of all effects.
97. Kainga Ora seeks amendment to CL-P2 [325.97], and CL-P4 [325.99] to better align with the NESCS including adding the words “change of” into CL-P2 and deleting references to “environment” in both policies.
98. Both submitters also seek amendments to the Contaminated Land Chapter Introduction. Fuel Companies [276.11] state that the chapter Introduction has some inconsistencies with the NESCS. The NESCS seeks to “identify” and “assess” contaminants in soil to determine if management is required before the land is subdivided, used or developed, but the chapter Introduction states the NESCS requires contaminants to be managed. Similarly, it states the District Council can implement consents under the NESCS and while this is correct, the District Council could also obtain and implement resource consent conditions under the NESCS.
99. The Fuel Companies anticipate that the intent was to convey that the Proposed District Plan does not contain rules for contaminated land but contains objectives or policies. Fuel Companies support recognition of the Regional Council’s responsibility in relation to contaminated land, including within the Coastal Marine Area and within beds of lakes and rivers, but seek responsibilities are more accurately reflected as relating to discharges.
100. Kainga Ora [325.93] is concerned that the application of the NESCS is broadened by referencing the environment in the chapter Introduction.

3.4.2 Assessment

Objective CL-O1

101. The Chapter seeks to provide direction for land use management in relation to contaminated land (where this is not covered by existing legislation or regulation), as covered throughout the Contaminated Land s32. The District Council has a role, under the RMA, in the prevention or mitigation of any adverse effects of the development, subdivision, or use of contaminated land. Section 31(1)(b)(iia) of the RMA provides for the prevention or mitigation of any adverse effects of the development, subdivision, or use of contaminated land as a territorial function. The RPS requires territorial authorities to set out objectives, policies or methods in district plans to require:

*“that any actual or potential adverse effects of contaminated land are avoided, remedied or mitigated in a manner that does not lead to further significant adverse effects on the environment”.*⁴

102. I recommend CL-O1 is retained as notified to include “adversely affect” to better align with and give effect to the RPS.

103. As discussed in the Contaminated Land s32 (p.14), while the scope of the NESCS relates to the effects of soil contamination on human health, this does not detract from councils’ broader functions under the RMA 31(1)(b)(iia). Objective 17.2.1 of the RPS seeks the “Protection of people and the environment from both on-site and off-site adverse effects of contaminated land” [emphasis added]. Therefore, references to the “environment” align with the RMA and the RPS.

Policy CL-P2

104. The amendment to refer to “good practice approach”, as sought by Fuel Companies, aligns with contaminated land management guidelines, referenced in the NESCS. However, deletion of “*The remediation or mitigation works for contaminated land shall be undertaken in such a way to not pose further risk to human health or the environment than if remediation had not occurred*”, as sought by Fuel Companies, would not give effect to the RPS. Territorial authorities are directed under the RPS to set out objectives, policies, or methods to require that any remediation or mitigation works for contaminated land do not lead to further significant adverse effects on the environment.

105. I agree that the addition of the words “change of” in CL-P2, as sought by Kainga Ora, would better align with NESCS Regulation 5(6).

106. The NESCS, as described on the Ministry for the Environment website: “*ensures that land affected by contaminants in soil is appropriately identified and assessed before it is developed - and if necessary, the land is remediated or the contaminants contained to make the land safe for human use*”⁵ [emphasis added]. I consider the amendments to the chapter Introduction suggested by Fuel Companies align with the NESCS but suggest the deletion of “and managed” is replaced with “if necessary, remediated” to be consistent with the NESCS.

3.4.3 Summary of recommendations

107. I recommend that the submission points from the Fuel Companies [276.11, 276.13], and Kainga Ora [325.97] be **accepted in part**.

108. I recommend that submission points from the Fuel Companies [276.12], and Kainga Ora [325.93, 325.94, 325.99] be **rejected**.

109. I also recommend that the Contaminated Land Introduction and CL-P2 be amended to be consistent with the NESCS as set out in **Appendix A2**.

⁴ RPS Policy 17.3.2, p.226

⁵ <https://environment.govt.nz/acts-and-regulations/regulations/national-environmental-standard-for-assessing-and-managing-contaminants-in-soil-to-protect-human-health/>

3.4.4 Section 32AA evaluation

110. In my opinion, the amendments to the chapter Introduction and CL-P2 is more appropriate in achieving the objectives of the Proposed Plan than the notified provisions.
111. In particular, I consider that the recommended amendments will not have any greater environmental, economic, social, and cultural effects than the notified provisions. However, there will be benefits from improved plan interpretation as it would align with the terminology used in the NESCS.

3.5 Identification of Contaminated Sites Submissions

3.5.1 Matters raised by submitters

112. CL-P1 relies on identification via the Listed Land Use Register, and while the RPS states Council's should use this to determine whether sites are contaminated, ECan [316.44] considers it would be helpful to also consider additional information that may be known from the District Council's records. ECan seeks that the scope of CL-P1 is broadened so consideration can also be given to sites not listed on ECan's Listed Land Use Register (LLUR) but which are known to be contaminated or have had activities onsite warranting investigation.
113. This submission point is opposed by Fuel Companies [FS104]. The Fuel Companies consider that the notified policy provides clear direction and sufficient scope to utilise other methods of identifying and recording contaminated land that is not strictly restricted to the use of the LLUR. In the absence of any specific relief proposed by the submitter, they state, it is not possible to understand what a broadened scope will look like and any possible implications.

3.5.2 Assessment

114. While I agree with the Fuel Companies that the notified policy provides clear direction and sufficient scope to utilise other methods of identifying and recording contaminated land, reference to District Council records can add further clarity and direction and implementing the policy would be as simple as checking files held in council property records. I am also aware that checking territorial records is a common method used to establish where a site is 'a piece of land'⁶. Therefore, I recommend the policy is amended to reference District Council records.

3.5.3 Summary of recommendations

115. I recommend that the submission point from ECan [316.44] be **accepted**.
116. I recommend that further submission from the Fuel Companies [FS104] to ECan submission point [316.44] be **rejected**.
117. I recommend that CL-P1 be amended to refer to District Council records as set out in **Appendix A2**.

⁶ Clause 6(2) NESCS

3.5.4 Section 32AA evaluation

118. In my opinion, the amendment to CL-P1 is more appropriate in achieving the objectives of the Proposed Plan, including as proposed to be amended by my recommendations than the notified provisions.
119. In particular, I consider that the recommended amendments will not have any greater environmental, economic, social, and cultural effects than the notified provisions. However, there will be benefits from improved plan interpretation and more efficient plan administration.

3.6 Contaminated Land – Submission seeking new objective

3.6.1 Matters raised by submitters

120. Kainga Ora [325.95] seeks a new objective to recognise the positive effects associated with the remediation of contaminated soils. No reasons for seeking the new objective were provided.
121. Fuel Companies [FS104] are neutral on the proposed objective stating that it does not clearly align with the intent or rule framework of the NESCS which seeks to manage effects on human health rather than recognise potential positive outcomes associated with remediation. The Fuel Companies acknowledge that positive benefits can and should be encouraged through the remediation of contaminated land but consider that the proposed objective may create a tension between the two frameworks with more analysis needed under s32.

3.6.2 Assessment

122. It is unclear why an objective recognising the positive effects associated with the remediation of contaminated soils is required and how the objective would effect to higher order documents. The RPS contains objectives and policies for the protection of people and the environment from adverse effects of contaminated land. While remediation of contaminated land is a way of protecting people and the environment from the adverse effects of contaminated land, it does not recognise the benefits of remediation for land availability for housing and business activities. There is a risk of acting as there is insufficient information provided.

3.6.3 Summary of recommendations

123. I recommend that submission point from Kainga Ora [325.95] be **rejected**.
124. I recommend that the further submission from the Fuel Companies [FS104] on Kainga Ora submission point [325.95] be **accepted**.
125. I recommend that no change be made to the Contaminated Land chapter.

3.7 Contaminated Land – Submission seeking new policy

3.7.1 *Matters raised by submitters*

126. ECan [316.48] seeks a new policy be added to discourage the creation of new contaminated land as the regional council's technical experts are continuing to find new potentially contaminated sites via aerial imagery. The Fuel Companies oppose this submission point.
127. The Fuel Companies [FS104] acknowledge that the 'creation' of new contaminated land is not desirable but is unavoidable as accidents, including leaks, and spills infrequently occur on sites that use and store hazardous substances, despite best intentions and adherence to best practice industry regulations. The Fuel Companies oppose any new policy that discourages the creation of new contaminated land as it may inadvertently discourage the establishment, expansion or ongoing operation of HAIL activities that provide essential resources to the district but are more susceptible to creating contaminated land compared to other activities.

3.7.2 *Assessment*

128. The addition of a policy to discourage the creation of new contaminated land, does not have a rule trigger associated with it so that the policy can be given effect to through rules. If such rules were included in the Plan, this would mean HAIL activities would require consent.⁷ Requiring consent for these activities, which are wide-ranging e.g. application of agrichemicals, livestock dip, storage drums for fuel, cemeteries etc. everywhere in the district would be a restrictive approach and not align with the current activity-based rule framework of the zone chapters. I also consider that the inclusion of rules is outside scope as ECan has not sought the addition of such rules.
129. The chapter, as notified, is focussed on the adverse effects of contaminated land, rather than land use that causes land to become contaminated which is in accordance with the functions of territorial authorities under the RMA (s31(1)(b)(iia), which is "the prevention or mitigation of any adverse effects of the development, subdivision, or use of contaminated land". Regional councils are responsible for discharges (s30(1)(f) which would cause the contamination. Neighbouring councils District Plans (Christchurch and Hurunui) and the Proposed Selwyn District Plan do not have any objectives and policies specifically discouraging the creation of contaminated land so it would not be a consistent approach to include the policy.
130. If the policy was to be included, then it could be considered when assessing those activities involving hazardous substances that already would require resource consent under the zone chapters, or through the Hazardous Substances Chapter rules. There are policies in the plan that do prevent the contamination of land to some extent, for instance HS-P3 which minimises the risk of spillage or leakage of hazardous substances in flood events. I consider there are benefits for including a broader policy because whether an activity may create contaminated land could be another consideration only when resource consent is already required but I agree with the Fuel Companies that where resource consent is required it may discourage these activities.
131. On the absence of any additional evidence to assess such a policy and how it can achieve both the outcome sought by ECan and the purpose of the RMA in enabling people and communities to

⁷ The full list of HAIL activities can be found on the Ministry for the Environment website.

provide for their social, economic and cultural well-being, and give effect to the functions of territorial authorities under the RMA, I recommend this submission point is rejected.

3.7.3 Summary of recommendations

132. I recommend that the submission point from Kainga Ora [325.48] be **rejected**.
133. I recommend that the further submission from the Fuel Companies [FS104] on ECan submission point 316.48 be **accepted**.
134. I recommend that no change be made to the Contaminated Land chapter.

3.8 Policy CL-P3 (Earthworks on contaminated land) Submissions

3.8.1 Matters raised by submitters

135. There are three submissions in support of CL-P3, one submitter seeks to amend CL-P3 by clarifying what is meant by “natural values” and one opposes.
136. Fuel Companies [276.14] oppose CL-P3 as they consider it explicitly discourages the disturbance of contaminated land which is often the first step in identifying and assessing risk. While an allowance is made for disturbance associated with remediation, they state, it is only one method of addressing potential effects and disturbance may be necessary for other reasons, for instance reinstatement of sealed surfaces. They consider that any risk or effects associated with earthworks and/or disturbance can be appropriately addressed by CL-P2.
137. ECan [316.46] seeks clarification for the term “natural values” referred to in CL-P3.

3.8.2 Assessment

138. The purpose of CL-P3 was to manage the residual risk of contaminated land on the environment and to give effect to Part 2 of the RMA, in particular s6(c) and s7(f), as set out in the Contaminated Land s32 (p.9, 14, 15). As the Proposed District Plan rules e.g. Earthworks Chapter along with the NESCS set out a criteria for where disturbance is acceptable, I recommend the policy is retained.
139. As the regional council is responsible for discharges, there is a residual risk of flora and fauna being affected directly where contaminated land is disturbed where there was no discharge involved. CL-P3 would be implemented through the earthworks rules e.g. no earthworks are permitted within SNAs, and could be considered where this rule is breached, as outlined in the Contaminated Land s32 (p.14-15). I was the main author of the Contaminated Land Chapter and the s32 and the intention was to encompass the ecological values of flora and fauna, as this was a gap not addressed by other legislation. The permitted activity rules in the NESCS will not necessarily provide protection for ecological receptors, in particular terrestrial biodiversity. I consider ‘Ecological values’ is a well-known and understood term and is used throughout the plan, including in the Ecosystems and Indigenous Biodiversity, Natural Character of Freshwater Bodies, and Coastal Environment chapters. It is also used in the RPS policies 6.3.9(5)(j) and 10.3.2(2). I recommend the policy be amended to include ‘ecological values’ which accurately reflects the intent of the policy.

3.8.3 Summary of recommendations

140. I recommend that the submission point from ECan [316.46] be **accepted**, and Fuel Companies [276.14] be **rejected**.
141. I recommend that CL-P3 be amended to refer to ecological values as set out in **Appendix A2**.

3.8.4 Section 32AA evaluation

142. In my opinion, the amendment to CL-P3 is more appropriate in achieving the objectives of the Proposed Plan (including my proposed amendments) than the notified provisions. In particular, I consider that there will be benefits from improved plan interpretation and more efficient plan administration.

3.9 Policy CL-P4 (Disposal of contaminated soil) Submissions

3.9.1 Matters raised by submitters

143. The Fuel Companies [276.15] seek deletion of CL-P4 as they consider the intent is effectively provided by CL-P2 which seeks to apply good environmental practices to effectively manage risk and effects. They also assume this policy seeks to manage land fill activities which they consider would be more appropriately dealt with under the relevant zone provisions (p.7).
144. As mentioned above in section 3.5, Kainga Ora [325.99] seeks CL-P4 is amended to delete the reference to the "environment".

3.9.2 Assessment

145. I agree that the intent of CL-P4 is effectively provided by CL-P2 and landfill activities are dealt with under zone provisions e.g. waste management facility (LLRZ-R37, GRUZ-R31, RLZ-R32 and SPZ(PR)-R26) and composting facility (LLRZ-R38, GRUZ-R32, RLZ-R33 and SPZ(PR)-R33) as well as other legislation (Waste Minimisation Act 2008). Risks and effects from contaminated soil are also dealt with through the Earthworks provisions. Therefore, I consider that CL-P4 is unnecessary.

3.9.3 Summary of recommendations

146. I recommend that the submission point from the Fuel Companies [276.15] be **accepted**, and Kainga Ora [325.99] be **rejected**.
147. I also recommend that CL-P4 be deleted as set out in **Appendix A2**.

3.9.4 Section 32AA evaluation

148. In my opinion, the deletion of CL-P4 is more appropriate in achieving the objectives of the Proposed Plan than the notified provisions. In particular, I consider that recommended amendments will not have any greater environmental, economic, social, and cultural effects than the notified provisions as the intent is provided by CL-P2 and adverse effects will be covered by other plan chapters.

4 Conclusions

149. Having considered all the submissions and reviewed all relevant statutory and non-statutory documents, I recommend that the Proposed Plan should be amended as set out in **Appendix A1 and Appendix A2** of this report.

150. For the reasons included throughout this report:


- The recommended amendments to HS-O1 are the most appropriate to give effect to RPS policies 18.3.1, 18.3.2 and to achieve the purpose of the Resource Management Act 1991 (RMA), including achieving the matters of national importance, and
- I consider that the proposed provisions, with the recommended amendments, will be the most appropriate means to achieve the relevant objectives of the Proposed Plan, including amended HS-O1.

Recommendations:

I recommend that:

1. The Hearing Commissioners accept, accept in part, or reject submissions (and associated further submissions) as outlined in **Appendix B** of this report; and
2. The Proposed Plan is amended in accordance with the changes recommended in **Appendix A1 and Appendix A2** of this report.

Signed:

Name and Title		Signature
Report Author	Jessica Manhire Policy Planner, Waimakariri District Council	

Appendix A1. Recommended Amendments to Hazardous Substances Chapter

Where I recommend changes in response to submissions, these are shown as follows:

- Text recommended to be added to the Proposed Plan is underlined.
- Text recommended to be deleted from the Proposed Plan is ~~struck through~~.

HS - Matū mōrearea - Hazardous Substances

Introduction

Hazardous substance use, its storage and disposal can pose potential risks for human and ecological health and safety, and for property. These risks are primarily managed by HSNO, HSWA, Health and Safety at Work (Major Hazard Facilities) Regulations 2016, Health and Safety at Work (Hazardous Substances) Regulations 2017.

The District Plan should not duplicate specific legislation or the functions of Regional Council but can control effects that are not otherwise managed. This chapter addresses risk that is not controlled by zone provisions, Regional Council or other legislation. This includes the location of major hazard facilities using or storing hazardous substances, the location of sensitive activities and locations in areas that are prone to ~~flood hazard~~ natural hazards⁸.

The provisions in this chapter are consistent with the matters in Part 2 - District Wide Matters - Strategic Directions and give effect to matters in Part 2 - District Wide Matters - Urban Form and Development.

Other potentially relevant District Plan provisions

As well as the provisions in this chapter, other District Plan chapters that contain provisions that may also be relevant to hazardous substances include:

- Energy and Infrastructure: this chapter contains rules for energy and infrastructure such as fuel and gas distribution, ~~and storage~~ and also addresses hazardous substances, amongst other activities, located in the National Grid Yard⁹.
- Any other District wide matter that may affect or relate to the site.
- Zones: the zone chapters contain provisions about what activities are anticipated to occur in the zones.

Objectives	
HS-O1	<p>Hazardous substance use, storage and disposal</p> <p>Hazardous substance use, storage and disposal activities are <u>enabled and located</u>, and in the case of flood events managed,¹⁰ so that:</p> <ol style="list-style-type: none"> 1. risk to people, property¹¹ and the environment from any major hazard facility is minimised, including avoiding unacceptable risk to sensitive activities; 2. risk to any sensitive area is minimised; and 3. risk to land and water as a result of <u>natural hazards, including flood events</u>,¹² is minimised.

⁸ ECan [316.33]

⁹ Transpower [195.54]

¹⁰ Fuel Companies [276.2]

¹¹ Fuel Companies [276.2]

¹² ECan [316.34]

HS-O2	Sensitive activities The location of any new sensitive activity minimises reverse sensitivity effects on any existing major hazard facility, and avoids unacceptable risk to the sensitive activity.
Policies	
HS-P1	New major hazard facility Minimise risk to people, property ¹³ and the environment from any new major hazard facility, or any addition to a major hazard facility by: <ol style="list-style-type: none"> 1. identifying risk to human and ecological health and safety, and to property, through a QRA of any proposed activity, including its site characteristics and any cumulative risk from the use, storage and disposal of hazardous substances on other sites; 2. ensuring the location provides sufficient separation from any sensitive activity to minimise any risk identified in a QRA for the activity and avoids unacceptable risk to existing sensitive activities; 3. locating outside <u>of the National Grid Yard</u>¹⁴ any areas of significant indigenous vegetation, significant habitats for indigenous fauna and Sites and Areas of Significance to Māori, and zones and overlays where sensitive areas or activities predominate; and 4. locating outside any high hazard area unless risk associated with the hazard can be mitigated to protect human, and environmental, health and safety.
HS-P2	Sensitive activity location Ensure any new sensitive activity is sufficiently separated from any existing major hazard facility to minimise reverse sensitivity effects for the major hazard facility, and avoid unacceptable risk to the sensitive activity.
HS-P3	Hazardous substance storage and flood hazards Within the Non-Urban Flood Assessment Overlay, Urban Flood Assessment Overlay and the Kaiapoi Fixed Minimum Finished Floor Level Overlay ¹⁵ , <u>and High Coastal Flood Hazard Area</u> ¹⁶ any hazardous substance shall be stored to minimise the risk of spillage or leakage and contamination of land and water in a flood event <u>or from sea water inundation</u> ¹⁷ .

Activity Rules

HS-R1	Hazardous substance storage and use	
	<i>This rule does not apply to any major hazard facility provided for under HS-R2.</i>	
Urban Flood Assessment Overlay	Activity status: PER Where: 1. the storage of hazardous substances within any	Activity status when compliance not achieved: RDIS Matters of discretion are restricted to:

¹³ Fuel Companies [276.4]

¹⁴ Transpower [195.55]

¹⁵ Natural Hazards s42A consequential amendment

¹⁶ ECan [316.38]

¹⁷ ECan [316.38]

<p>Non-Urban Flood Assessment Overlay Kaiapoi Fixed Minimum Finished Floor Level Overlay</p> <p>Coastal Flood Assessment Overlay¹⁸</p>	<p>hazardous facility is at, or above the finished floor level established either by the Kaiapoi Fixed Minimum Finished Floor Level Overlay,¹⁹ or by a Flood Assessment Certificate issued in accordance with NH-S1, or by a Coastal Flood Assessment Certificate issued in accordance with NH-S2.²⁰</p>	<p>HS-MD1 - Hazardous substances</p>
<p>HS-R2 Any new major hazard facility or addition to a major hazard facility</p>		
<p>General Industrial Zone Heavy Industrial Zone</p>	<p>Activity status: RDIS Where:</p> <ol style="list-style-type: none"> 1. the activity is not located within a SASM or Fault Awareness Overlay; and 2. the activity is not located within a High Flood Hazard Area, High Coastal Flood Hazard Area, or the Ashley Fault Avoidance Overlay. <p>Matters of discretion are restricted to: HS-MD1 - Hazardous substances</p>	<p>Activity status when compliance not achieved with HS-R2 (1): DIS Activity status when compliance not achieved with HS-R2 (2): NC</p>
<p>General Rural Zone</p>	<p>Activity status: DIS Where:</p> <ol style="list-style-type: none"> 3. the activity is not located within any SNA or SASM; and 4. the activity is not located within a Fault Awareness Overlay, 	<p>Activity status when compliance not achieved: NC</p>

¹⁸ ECan [316.39]

¹⁹ Natural Hazards s42A consequential amendment

²⁰ ECan [316.39]

	the Ashley Fault Avoidance Overlay, a High Flood Hazard Area or High Coastal Flood Hazard Area.	
Rural Lifestyle Zone Residential Zones Commercial and Mixed Use Zones Light Industrial Zone Open Space and Recreation Zones Special Purpose Zones	Activity status: NC	Activity status when compliance not achieved: N/A
HS-R3	Sensitive activity located within a Major Hazard Facility	
All Zones	Activity Status: NC	Activity status when compliance not achieved: N/A
	Advisory Note <ul style="list-style-type: none"> • Sensitive activity within the site of any major hazard facility or within any Risk Management Contour shown on the planning map. 	

Advice Note

HS-AN1	<p>Activities and structures may also be subject to controls outside the District Plan. Reference should also be made to any other applicable rules or constraints within other legislation or ownership requirements including the following:</p> <ol style="list-style-type: none"> 1. There are additional controls for hazardous substances under the HSNO, the HSWA, Health and Safety at Work (Major Hazard Facilities) Regulations 2016, and Health and Safety at Work (Hazardous Substances) Regulations 2017. These are administered by the Environmental Protection Authority and WorkSafe New Zealand; 2. The rules in this chapter are for any residual risk from hazardous substances on human health and the environment that is not controlled through other legislation, or by the Regional Council. Resource consent may also be required from the Regional Council in relation to hazardous substances, under the LWRP and the CARP. The LWRP contains rules for the discharge and storage of hazardous substances including storage near water bodies, bores, community drinking water and faults. The CARP manages the effects of discharges to air on health and sensitive activities; and
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	<p>3. Resource consent may be required from the District Council under the NESCS, which prescribes the methods that may be used to assess and manage land that is contaminated, or potentially contaminated from an activity or industry on the HAIL. The Regional Council is to be advised when contaminated land is identified. Resource consent may also be required from Regional Council in relation to disturbance of contaminated land.</p>
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Matters of Discretion

HS-MD1	<p>Hazardous substances</p> <ol style="list-style-type: none"> 1. QRA of the activity, including use of either the individual fatality risk contour or the maximum credible fatality distance, taking into account features of the site and surrounding environment which may affect the site-specific contour. 2. Proposed mitigation in relation to risk identified by the QRA that are not controlled by other legislation or regional council functions. 3. Any effects relating to natural hazard areas identified in the District Plan, including the extent to which hazardous substances can be safely contained to avoid inundation by floodwater or contamination of land or water in the event of a 0.5% AEP flood event for low and medium hazard and a 0.2% AEP flood event for high hazard. 4. The level of risk relating to the nature and volume of the hazardous substance, except where this is controlled by other legislation, including the: <ol style="list-style-type: none"> a. probability and potential consequences of an accident leading to the loss of control of hazardous substances; b. potential effects on natural ecosystems and life-supporting capacity of land and water from escape or spillage; c. potential risk and effect on sites and areas of significance to Māori as set out in SASM-SCHED1; d. potential risk and effect on the human health and safety, and on neighbouring activities such as residential activities and areas where people congregate, and the amenity values of these areas and activities; e. potential effects on sensitive activities that would be permitted in the zone near a major hazard facility; and f. potential for cumulative adverse effects considering other activities in the surrounding area that store, use, or dispose of hazardous substances. 5. Reverse sensitivity effects from a sensitive activity on the functioning of a major hazard facility. 6. Effects on any sensitive activity from a major hazard facility establishing in that location. 7. The operational need or functional need for a major hazard facility, or sensitive activity to locate in that location. 8. Any positive effects of the major hazard facility.
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Appendix A2. Recommended Amendments to Contaminated Land Chapter

Where I recommend changes in response to submissions, these are shown as follows:

- Text recommended to be added to the Proposed Plan is underlined.
- Text recommended to be deleted from the Proposed Plan is ~~struck through~~.

CL - Whenua paitini - Contaminated Land

Introduction

Sites are identified as contaminated when land has a hazardous substance in or on it that may have significant adverse effects on human health or the environment.

The District Council is required to implement the NESCS. The NESCS requires that land affected, or potentially affected, by contaminants in soil is identified, assessed and, if necessary managed/ remediated before it is subdivided, used or developed to mitigate adverse effects on human health. The NESCS sets out the activity status for subdivision, use and development of land.

~~The District Council Plan does not contain any rules for the subdivision, use or development of contaminated land as this is regulated implements resource consents under the NESCS. The District Plan does, however, provide the relevant as the NESCS does not contain any objectives or and policies relating to contaminated land, as none are provided by the NESCS the District Plan will apply.~~

Regional councils identify and monitor contaminated land. The Regional Council has recorded potentially contaminated land in the LLUR, which is a public database of land with a history of potentially hazardous activities or industries. The information in the LLUR is used by territorial authorities to identify land that is or has been used for a hazardous activity or industry, when preparing Land Information Memoranda and when assessing applications for resource consent.

The Regional Council is ~~also~~ responsible for the avoidance, remediation, or mitigation of adverse effects from the use of contaminated land within the CMA and within the beds of lakes and rivers and the avoidance, remediation, or mitigation of adverse effects from discharges of contaminants into or onto contaminated land, air or water²¹.

The provisions in this chapter are consistent with the matters in Part 2 - District Wide Matters - Strategic Directions and give effect to matters in Part 2 - District Wide Matters - Urban Form and Development.

Objective	
CL-O1	Contaminated land The subdivision, use and development of contaminated land does not adversely affect people, property, and the environment.
Policies	
CL-P1	Identify contaminated sites Identify sites potentially containing contaminated land, including sites with contamination from current and historical land uses and activities, by using the

²¹ Fuel Companies [276.11]

	Regional Council's LLUR, <u>District Council records</u> , ²² and coordinating with the Regional Council in the recording and management of contaminated land.
CL-P2	Best practice management of contaminated land Require applications for subdivision, <u>change of</u> ²³ use or development of contaminated land, or potentially contaminated land, <u>to apply a good practice approach to the include an investigation management of the risks and to remediate the contamination, or manage activities on contaminated land</u> , to protect the <u>human</u> health of people ²⁴ and the environment. The remediation or mitigation works for contaminated land shall be undertaken in such a way to not pose further risk to human health or the environment than if remediation had not occurred.
CL-P3	Earthworks on contaminated land Discourage the disturbance of contaminated land, unless for the purpose of contamination remediation, where the level, type and toxicity of the contamination could adversely affect natural values, <u>including ecological values</u> ²⁵ .
CL-P4	Disposal of contaminated soil Avoid adverse effects on the health of people and the environment from the disposal of soil from contaminated land. ²⁶

There are no rules in this chapter. The objectives and policies apply across the Plan.

Advice Notes

CL-AN1	<p>Activities and structures may also be subject to controls outside the District Plan. Other applicable rules or controls within other legislation or ownership requirements include the following:</p> <ul style="list-style-type: none"> • The Regional Council's LLUR summarises the information held in its records about land where hazardous activities are known to have occurred or are currently occurring in Canterbury. This is available on the Regional Council's LLUR website. The register should be checked in association with any application for resource consent for subdivision or land development. • A resource consent may be required from the District Council under the NESCS, which prescribes methods used to assess and manage land that is contaminated, or potentially contaminated from an activity or industry on the HAIL. The Regional Council is to be advised when contaminated land is identified. • There are no rules in the District Plan for contaminated land. The NESCS manages subdivision, use and development of contaminated, or potentially
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²² ECan [316.44]

²³ Kainga Ora [325.97]

²⁴ Fuel Companies [276.13]

²⁵ ECan [316.46]

²⁶ Fuel Companies [276.15]

	<p>contaminated, land. However, the objectives and policies in the District Plan apply to the assessment of any resource consent application.</p> <ul style="list-style-type: none">• A resource consent may also be required from the Regional Council in relation to contaminated land.• Contaminated land management guidelines are available on the Regional Council's website.
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Appendix B. Recommended Responses to Submissions and Further Submissions

The recommended responses to the submissions made on this topic are presented in Table B 1 below.

Table B 1: Recommended responses to submissions and further submissions – Hazardous Substances

Sub. Ref.	Submitter / Further Submitter	Provision	Decision Requested	Section of this Report where Addressed	Officer's Recommendation	Officers' Reasons/Comments	Recommended Amendments to Proposed Plan?
Hazardous Substances - General							
295.85 ²⁷	HortNZ	General	Retain the HS - Matū mōrearea - Hazardous Substances sections as notified.	n/a	Accept in part	Accept in part, subject to amendments made in response to other submissions.	n/a
Hazardous Substances - Definitions							
166.2	New Zealand Defence Force	Hazardous Facility	Retain the definition of 'hazardous facility' as notified.	n/a	Accept	Agree with submitter.	No
276.9	Fuel Companies	Hazardous Facility	Support 'hazardous facility' definition.	n/a	Accept	Agree with submitter.	No
276.16	Fuel Companies	Hazardous Substance	Support 'hazardous substances' definition.	n/a	Accept	Agree with submitter.	No
276.8	Fuel Companies	Major Hazard Facility	Support 'major hazard facility' definition.	n/a	Accept	Agree with submitter.	No
Hazardous Substances - Introduction							
195.54	Transpower	Introduction	In the Introduction of the Hazardous Substances Chapter, amend 'Other potentially relevant District Plan provisions': "As well as the provisions in this chapter, other District Plan chapters that contain provisions that may also be relevant to hazardous substances include: - Energy and Infrastructure: this chapter contains rules for energy and infrastructure such as fuel and gas distribution, and storage and also addresses hazardous substances, amongst other activities, located in the National Grid Yard. - Any other District wide matter that may affect or relate to the site. - Zones: the zone chapters contain provisions about what activities are anticipated to occur in the zones."	n/a	Accept	Agree with submitter. The Hazardous Substances Chapter applies to Energy and Infrastructure.	Yes
276.1	Fuel Companies	Introduction	Support introduction to Hazardous Substances Chapter in part.	n/a	Reject	Submitter did not request any amendments to the Introduction.	No
316.33 ²⁸	ECan	Introduction	Amend Hazardous Substances Introduction to refer broadly to natural hazards rather than specifically flood hazards.	3.3	Accept	Gives effect to the RPS.	Yes
Hazardous Substances - Objectives							
46.3	Woodstock Quarries Limited	HS-O1	Retain HS-O1 as notified.	n/a	Accept in part	Accept in part, subject to amendments made in response to other submissions (276.2 and 316.34).	No
276.2	Fuel Companies	HS-O1	Amend HS-O1: "Hazardous substance use, storage and disposal activities are <u>enabled and</u> located, and in the case of flood events, managed, so that: 1. risk to people, property and the environment from any major hazard facility is minimised, including avoiding unacceptable risk	3.2	Accept in part	See body of the report.	Yes

²⁷ Support – CIAL [FS80] – officer recommendation: accept²⁸ Support – CIAL [FS80] – officer recommendation: accept

Sub. Ref.	Submitter / Further Submitter	Provision	Decision Requested	Section of this Report where Addressed	Officer's Recommendation	Officers' Reasons/Comments	Recommended Amendments to Proposed Plan?
			to sensitive activities; 2. risk to any sensitive area is minimised; and 3. risk to land and water as a result of flood events is minimised <u>managed</u> . <u>Note:</u> A flood event is defined as a 0.5% AEP flood event for low and medium hazard and a 0.2% AEP flood event for high hazard."				
284.126	CIL	HS-O1	Retain HS-O1 as notified.	n/a	Accept in part	Accept in part, subject to amendments made in response to other submissions (276.2 and 316.34).	No
316.34 ²⁹	ECan	HS-O1	Amend HS-O1 to reference all natural hazards.	3.3	Accept	Gives effect to the RPS.	Yes
326.130	RIDL	HS-O1	Retain HS-O1 as notified.	n/a	Accept in part	Accept in part, subject to amendments made in response to other submissions (276.2 and 316.34).	No
145.19	Daiken New Zealand Limited	HS-O2	Retain HS-O2 as notified.	n/a	Accept	Agree with submitter.	No
276.3	Fuel Companies	HS-O2	Amend HS-O2: " The location of any new sensitive activity minimises reverse sensitivity effects on any existing major hazard facility, and avoids unacceptable risk to the sensitive activity. <u>Avoid unacceptable risk from the establishment or intensification of sensitive activities and otherwise minimise reverse sensitive effects on major hazard facilities.</u> "	3.2	Reject	See body of the report.	No
284.127	CIL	HS-O2	Retain HS-O2 as notified.	n/a	Accept	Agree with submitter.	No
316.35 ³⁰	ECan	HS-O2	Retain HS-O2 as notified or retain the original intent.	n/a	Accept	Agree with submitter.	No
326.131	RIDL	HS-O2	Retain HS-O2 as notified.	n/a	Accept	Agree with submitter.	No
Hazardous Substances – Policies							
195.55	Transpower	HS-P1	Amend HS-P1: "Minimise risk to people, property and the environment from any new major hazard facility, or any addition to a major hazard facility by: ... 3. locating outside of the National Grid Yard, any areas of significant indigenous vegetation, significant habitats for indigenous fauna and Sites and Areas of Significance to Māori, and zones and overlays where sensitive areas or activities predominate; and ..."	n/a	Accept	This amendment is consistent with Transpower submission point 195.43 on EI-R51 which seeks that a building or structure within a National Grid Yard must not be used for the handling or storage of hazardous substances with explosive or flammable properties in greater than domestic scale quantities. I understand the Energy and Infrastructure s42A author's current preliminary recommendation is to accept submission point 195.43 to better give effect to the NPSET and RPS and improve	Yes

²⁹ Support – CIAL [FS80] – officer recommendation: accept

³⁰ Support – CIAL [FS80] – officer recommendation: accept

Sub. Ref.	Submitter / Further Submitter	Provision	Decision Requested	Section of this Report where Addressed	Officer's Recommendation	Officers' Reasons/Comments	Recommended Amendments to Proposed Plan?
			<i>[HS-P1 was incorrectly summarised as HS-O1 in the summary of submissions]</i>			consistency with the district plans of neighbouring councils. If this is the case, then I recommend the submission point be accepted for consistency with this amendment.	
276.4	Fuel Companies	HS-P1	Amend HS-P1: "Minimise risk to people, property and the environment from any new major hazard facility, or <u>any increase in the risk profile</u> addition to of a major hazard facility by: 1. <u>an appropriate risk assessment of the proposed storage and use of hazardous substances, identifying risk to human and ecological health and safety, and to property, through a QRA of any proposed activity, including consideration of its site characteristics and any cumulative risk from the use, storage and disposal of hazardous substances on other sites;</u> 2. <u>avoiding unacceptable risk identified in the QRA on existing sensitive activities; ensuring the location provides sufficient separation from any sensitive activity to minimise any risk identified in a QRA for the activity and avoids unacceptable risk to existing sensitive activities;</u> 3. <u>locating outside any areas of significant indigenous vegetation, significant habitats for indigenous fauna and Sites and Areas of Significance to Māori, and zones and overlays where sensitive areas or activities predominate; and</u> 4. <u>locating outside any high hazard area unless risk associated with the hazard can be appropriately mitigated to protect human, and environmental, health and safety."</u>	3.2	Accept in part	See body of the report.	Yes
284.128	CIL	HS-P1	Retain HS-P1 as notified.	n/a	Accept in part	Accept in part, subject to amendments made in response to other submissions.	No
316.36 ³¹	ECan	HS-P1	Retain HS-P1 as proposed or retain the original intent. [Note: This was incorrectly referenced as HS-O1 in the relief sought summary and was re-notified]	n/a	Accept in part	Accept in part, subject to amendments made in response to other submissions.	No
326.132	RIDL	HS-P1	Retain HS-P1 as notified.	n/a	Accept in part	Accept in part, subject to amendments made in response to other submissions.	No
145.20	Daiken New Zealand Limited	HS-P2	Retain HS-P2 as notified.	n/a	Accept	Agree with submitter.	No
276.41	Fuel Companies	HS-P2	Amend HS-P2: "Ensure any new or <u>intensified activities</u> are sensitive activity is sufficiently separated from any existing major hazard facility to minimise reverse sensitivity effects for the major	3.2	Reject	HS-R3 implements this policy. There is no rule to ensure any "new or intensified activities" are sufficiently separated, and no scope was provided in the submission to amend this rule.	No

³¹ Support – CIAL [FS80] – officer recommendation: accept

Sub. Ref.	Submitter / Further Submitter	Provision	Decision Requested	Section of this Report where Addressed	Officer's Recommendation	Officers' Reasons/Comments	Recommended Amendments to Proposed Plan?
			hazard facility, and avoid unacceptable risk to the sensitive activities and minimise reverse sensitivity effects."				
284.129	CIL	HS-P2	Retain HS-P2 as notified.	n/a	Accept	Agree with submitter.	No
316.37 ³²	ECan	HS-P2	Retain HS-P2 as notified or retain the original intent.	n/a	Accept	Agree with submitter.	No
326.133	RIDL	HS-P2	Retain HS-P2 as notified.	n/a	Accept	Agree with submitter.	No
46.8	Woodstock Quarries Limited	HS-P3	Retain HS-P3 as notified.	n/a	Accept in part	Accept in part, subject to amendments made in response to other submissions.	No
276.42	Fuel Companies	HS-P3	Support in part HS-P3.	n/a	Accept in part	Accept in part, subject to amendments made in response to other submissions.	No
284.130	CIL	HS-P3	Retain HS-P3 as notified.	n/a	Accept in part	Accept in part, subject to amendments made in response to other submissions.	No
316.38 ³³	ECan	HS-P3	Amend HS-P3 to reference natural hazards rather than specifically flood hazards.	3.3	Accept in part	Notified version given effect to through the rules. Aligns with the Natural Hazards Chapter. Recommend amendments to broaden policy while still being given effect to through rules.	Yes
326.134	RIDL	HS-P3	Retain HS-P3 as notified.	n/a	Accept in part	Accept in part, subject to amendments made in response to other submissions.	No
Hazardous Substances – Activities Rules							
276.5	Fuel Companies	HS-R1	Amend HS-R1: (Permitted) "Where: 1. aboveground the storage of hazardous substances within any hazardous facility is at, or above the finished floor level established either by the Kaiapoi Fixed Minimum Finished Floor Level Overlay or by a Flood Assessment Certificate issued in accordance with NH-S1."	3.2	Reject	Rule as notified addresses residual risk (the risk of hazardous substances from natural hazard events is not adequately addressed through other legislation). Evidence that all underground facilities are resilient to inundation not provided.	No
284.131	CIL	HS-R1	Retain HS-R1 as notified.	n/a	Accept in part	Accept in part, subject to amendments made in response to other submissions.	No
316.39 ³⁴	ECan	HS-R1	Amend HS-R1 to refer to high hazard areas rather than specifically flood hazards and control the storage of hazardous substances in high flood hazard areas.	3.3	Accept in part	The rule as currently drafted is specific, measurable and achievable as refers to the Kaiapoi Fixed Minimum Finished Floor Level Overlay and aligns with the Natural Hazards Chapter which would more effectively give effect to the objective. Amend to also apply to the Coastal Flood Assessment Overlay.	Yes
326.135	RIDL	HS-R1	Retain HS-R1 as notified.	n/a	Accept in part	Accept in part, subject to amendments made in response to other submissions.	No

³² Support – CIAL [FS80] – officer recommendation: accept

³³ Support – CIAL [FS80] – officer recommendation: accept

³⁴ Support – CIAL [FS80] – officer recommendation: accept

Sub. Ref.	Submitter / Further Submitter	Provision	Decision Requested	Section of this Report where Addressed	Officer's Recommendation	Officers' Reasons/Comments	Recommended Amendments to Proposed Plan?
276.6	Fuel Companies	HS-R2	Amend HS-R2: "Any new major hazard facility or <u>any</u> increase in the risk profile of <u>addition</u> to major hazard facility."	3.2	Reject	Rule implementation.	No
284.132	CIL	HS-R2	Retain HS-R2 as notified.	n/a	Accept	Agree with submitter.	No
316.40 ³⁵	ECan	HS-R2	Retain HS-R2 as notified or retain the original intent.	n/a	Accept	Agree with submitter.	No
326.136	RIDL	HS-R2	Retain HS-R2 as notified.	n/a	Accept	Agree with submitter.	No
276.7	Fuel Companies	HS-R3	Support HS-R3.	n/a	Accept	Agree with submitter.	No
284.133	CIL	HS-R3	Retain HS-R3 as notified.	n/a	Accept	Agree with submitter.	No
316.41 ³⁶	ECan	HS-R3	Retain HS-R3 as notified or retain original intent.	n/a	Accept	Agree with submitter.	No
326.137	RIDL	HS-R3	Retain HS-R3 as notified.	n/a	Accept	Agree with submitter.	No
Hazardous Substances – Matters of Discretion							
284.134	CIL	HS-MD1	Retain HS-MD1 as notified.	n/a	Accept	Agree with submitter.	No
316.42 ³⁷	ECan	HS-MD1	Amend HS-MD1 to refer to other natural hazards.	3.3	Reject	Already addresses all residual risk of hazardous substances from natural hazards.	No
326.138	RIDL	HS-MD1	Retain HS-MD1 as notified.	n/a	Accept	Agree with submitter.	No

³⁵ Support – CIAL [FS80] – officer recommendation: accept

³⁶ Support – CIAL [FS80] – officer recommendation: accept

³⁷ Support – CIAL [FS80] – officer recommendation: accept

Table B 2: Recommended responses to submissions and further submissions – Contaminated Land

Sub. Ref.	Submitter / Further Submitter	Provision	Decision Requested	Section of this Report where Addressed	Officer's Recommendation	Officers' Reasons/Comments	Recommended Amendments to Proposed Plan?
Contaminated Land - General							
295.86 ³⁸	HortNZ	General	Retain the CL - Whenua paitini - Contaminated Land sections as notified.	n/a	Accept in part	Accept in part, subject to amendments made in response to other submissions.	No
Contaminated Land - Definitions							
295.20	HortNZ	Contaminant	Retain definition of 'contaminant' as notified.	n/a	Accept	Agree with submitter.	No
276.17	Fuel Companies	Contaminated land	Support definition 'contaminated land'.	n/a	Accept	Agree with submitter.	No
295.21	HortNZ	Contaminated land	Retain definition of 'contaminated land' as notified.	n/a	Accept	Agree with submitter.	No
Contaminated Land - Introduction							
276.11	Fuel Companies	Introduction	<p>Amend introduction to Contaminated Land Chapter:</p> <p>"... The NESCS requires that land affected, or potentially affected, by contaminants in soil is identified <u>and</u>, assessed and managed before it is subdivided, used or developed to mitigate adverse effects on human health. The NESCS sets out the activity status for subdivision, use and development of land.</p> <p>The District Council Plan does not contain any rules for the subdivision, use or development of contaminated land as this is regulated implements resource consents under the NESCS. The District Plan does, however, provide the relevant as the NESCS does not contain any objectives or policies relating to contaminated land, noting that none are provided by the NESCS the District Plan will apply.</p> <p>... The Regional Council is also responsible for the avoidance, remediation, or mitigation of adverse effects from the use of contaminated land within the CMA and within the beds of lakes and rivers and the avoidance, remediation, or mitigation of adverse effects from discharges <u>of contaminants into or onto contaminated land, air or water.</u> ..."</p>	3.4	Accept in part	Accept amendments for consistency with the NESCS and to accurately reflect regional council responsibilities in relation to discharges, as requested by the submitter. However, I suggest deletion of "and managed" is replaced with "if necessary, remediated" to be consistent with the NESCS.	Yes
325.93 ³⁹ ⁴⁰ ⁴¹	Kainga Ora	Introduction	<p>Amend the introduction of the Contaminated Land Chapter:</p> <p>"Sites are identified as contaminated when land has a hazardous substance in or on it that may have significant adverse effects on human health or the environment.</p>	3.4	Reject	See body of the report.	No

Sub. Ref.	Submitter / Further Submitter	Provision	Decision Requested	Section of this Report where Addressed	Officer's Recommendation	Officers' Reasons/Comments	Recommended Amendments to Proposed Plan?
			..."				
FS104	Fuel Companies	Introduction	The proposed amendment seeks to narrow the focus of effects to those relating to 'human health' which better aligns with intent and rule framework of the NES:CS. The Fuel Companies support this amendment with broader environmental effects more appropriately managed through the regional framework.	n/a	Reject	See body of the report.	No
Contaminated Land - Objectives							
325.95	Kainga Ora	General	Insert new objective: "CL-O2 Positive benefits from treatment and remediation of contaminated land Remediation of contaminated land contributes to the health and wellbeing of communities, including increased availability of land for housing and business activities."	3.6	Reject	See body of the report.	No
FS104	Fuel Companies	General	The proposed objective does not clearly align with the intent or rule framework of the NES:CS framework which seeks to manage effects on human health rather than recognise potential positive outcomes associated with remediation. The Fuel Companies acknowledge that positive benefits can and should be encouraged through the remediation of contaminated land but consider that the proposed objective may create a tension between the two frameworks with more analysis needed under S32.	3.6	Accept	See body of the report.	No
276.12	Fuel Companies	CL-O1	Amend CL-O1: "The subdivision, use and development of contaminated land <u>is managed to protect human health</u> does not adversely affect people, property, and the environment. "	3.4	Reject	Notified version gives effect to Section 31(1)(b)(iia) of the RMA and the RPS.	No
284.135	CIL	CL-O1	Retain CL-O1 as notified.	n/a	Accept	Agree with submitter.	No
316.43 ⁴²	ECan	CL-O1	Retain CL-O1 as notified or retain intent.	n/a	Accept	Agree with submitter.	No
325.94 ⁴³⁴⁴⁴⁵	Kainga Ora	CL-O1	Amend CL-O1: "The subdivision, use and development of contaminated land does not <u>have significant adverse effects on human health</u> adversely affect people, property, and the environment. "	3.4	Reject	See body of the report.	No
FS104	Fuel Companies	CL-O1	<i>The Fuel Companies support limiting the scope of effects to human health for reasons previously stated. Notwithstanding, the Fuel Companies consider that CL-O1 should seek to 'manage' effects on human health rather than avoid significant adverse</i>		Reject	Notified version gives effect to Section 31(1)(b)(iia) of the RMA and the RPS.	No

⁴² Support – CIAL [FS80] – officer recommendation: accept

Sub. Ref.	Submitter / Further Submitter	Provision	Decision Requested	Section of this Report where Addressed	Officer's Recommendation	Officers' Reasons/Comments	Recommended Amendments to Proposed Plan?
			<i>effects, the former being better aligned with intent of the NES:CS.</i>				
326.139	RIDL	CL-O1	Retain CL-O1 as notified.	n/a	Accept	Agree with submitter.	No
Contaminated Land – Policies							
316.48 ⁴⁶⁴⁷	ECan	General	Add a policy to discourage the creation of new contaminated land.	3.7	Reject	Consistency with RPS and neighbouring district plans. See body of the report.	No
FS104	Fuel Companies	General	<i>The Fuel Companies acknowledge that the 'creation' of new contaminated land is not desirable but is unavoidable as accidents, including leaks, and spills infrequently occur on sites that use and store hazardous substances, despite best intentions and adherence to best practice industry regulations. The Fuel Companies oppose any new policy that discourages the creation of new contaminated land as it may inadvertently discourage the establishment, expansion or ongoing operation of HAIL activities that provide essential resources to the district but are more susceptible to creating contaminated land compared to other activities.</i>	3.7	Accept	<i>See body of the report.</i>	No
276.43	Fuel Companies	CL-P1	Retain CL-P1 as notified.	n/a	Accept in part	Accept in part, subject to amendments made in response to submission point 316.44.	No
284.136	CIL	CL-P1	Retain CL-P1 as notified.	n/a	Accept in part	Accept in part, subject to amendments made in response to submission point 316.44.	No
316.44 ⁴⁸⁴⁹⁵⁰⁵¹	ECan	CL-P1	Broaden scope of CL-P1 so consideration can also be given to sites not listed on the Listed Land Use Register but which are known to be contaminated or have had activities onsite warranting investigation.	3.5	Accept	Clarity, direction and implementation (see body of the report).	Yes
FS104	Fuel Companies	CL-P1	<i>The notified policy seeks to identify sites containing contaminated land by using the Listed Land Use Register (LLUR) 'and' coordinating with the Regional Council to enable the recording, and management, of contaminated land. The Fuel Companies consider that the notified policy provides clear direction and sufficient scope to utilise other methods of identifying and recording contaminated land that is not strictly restricted to the use of the LLUR. In the absence of any specific relief proposed by the submitter, it is not possible to understand what a broadened scope will look like and any possible implications. Relief: retain policy CL-P1 as notified.</i>	3.5	Reject	<i>See body of the report.</i>	No

⁵¹ Support – CIAL [FS80] – officer recommendation: accept

Sub. Ref.	Submitter / Further Submitter	Provision	Decision Requested	Section of this Report where Addressed	Officer's Recommendation	Officers' Reasons/Comments	Recommended Amendments to Proposed Plan?
325.96 ⁵²⁵³	Kainga Ora	CL-P1	Retain CL-P1 as notified.	n/a	Accept in part	Accept in part, subject to amendments made in response to submission point 316.44.	No
326.140	RIDL	CL-P1	Retain CL-P1 as notified.	n/a	Accept in part	Accept in part, subject to amendments made in response to submission point 316.44.	No
276.13	Fuel Companies	CL-P2	Amend CL-P2: "Require applications for subdivision, use or development of contaminated land, or potentially contaminated land, <u>to apply a good practice approach</u> include an to the investigation management of the risks to remediate the contamination, or manage activities on contaminated land, to protect the human health of people and the environment. The remediation or mitigation works for contaminated land shall be undertaken in such a way to not pose further risk to human health or the environment than if remediation had not occurred."	3.4	Accept in part	Aligns with the contaminated land management guidelines referenced in the NESCS. Recommending retaining text that gives effect to the RPS.	Yes
284.137	CIL	CL-P2	Retain CL-P2 as notified.	n/a	Accept in part	Accept in part, subject to amendments made in response to submission points.	No
316.45 ⁵⁴⁵⁵	ECan	CL-P2	Retain CL-P2 as notified or retain intent.	n/a	Accept in part	Accept in part, subject to amendments made in response to submission points.	No
325.97 ⁵⁶⁵⁷⁵⁸	Kainga Ora	CL-P2	Amend CL-P2: "Require applications for subdivision, <u>change of use</u> or development of contaminated land, or potentially contaminated land, to include an investigation of <u>investigate</u> the risks and to remediate the contamination, or manage activities on contaminated land, to protect <u>human health</u> . the health of people and the environment. The remediation or mitigation works for contaminated land shall be undertaken in such a way to not pose further risk to human health or the environment than if remediation had not occurred."	3.4	Accept in part	Addition of change of use aligns with NESCS Regulation 5(6). Notified version gives effect to RMA 31(1)(b)(iia) and the RPS. See body of the report for full reasons.	Yes
FS104	Fuel Companies	CL-P2	<i>For reasons previously stated, the Fuel Companies support limiting the scope of effects, relevant at the policy level, to those associated with human health but consider the relief offered in the Fuel Companies' submission more appropriately reflects that</i>	3.4	Accept in part	See submission point 276.13.	N/A

⁵⁴ Support – CIAL [FS80] – officer recommendation: accept

⁵⁵ Support – CIAL [FS80] – officer recommendation: accept

Sub. Ref.	Submitter / Further Submitter	Provision	Decision Requested	Section of this Report where Addressed	Officer's Recommendation	Officers' Reasons/Comments	Recommended Amendments to Proposed Plan?
			<i>remediation is just one option of managing effects of contaminated land which better aligns with the intent of the NES:CS.</i>				
326.141	RIDL	CL-P2	Retain CL-P2 as notified.	n/a	Accept in part	Accept in part, subject to amendments made in response to submission points.	No
276.14	Fuel Companies	CL-P3	Delete CL-P3: "Discourage the disturbance of contaminated land, unless for the purpose of contamination remediation, where the level, type and toxicity of the contamination could adversely affect natural values"	3.8	Reject	Policy gives effect to the RPS.	No
284.138	CIL	CL-P3	Retain CL-P3 as notified.	n/a	Accept in part	Accept in part, subject to amendments made in response to submission points.	No
316.46 ⁵⁹⁶⁰	ECan	CL-P3	Clarify what is meant by "natural values".	3.8	Accept	Agree with submitter. Recommend amend to 'ecological values'. See body of the report for reasons.	Yes
325.98 ⁶¹⁶²	Kainga Ora	CL-P3	Retain CL-P3 as notified.	n/a	Accept in part	Accept in part, subject to amendments made in response to submission points.	No
326.142	RIDL	CL-P3	Retain CL-P3 as notified.	n/a	Accept in part	Accept in part, subject to amendments made in response to submission points.	No
276.15	Fuel Companies	CL-P4	Delete CL-P4: "Avoid adverse effects on the health of people and the environment from the disposal of soil from contaminated land."	3.9	Accept	Agree with submitter.	Yes
284.139	CIL	CL-P4	Retain CL-P4 as notified.	n/a	Reject	Recommend deletion of policy.	No
316.47	ECan	CL-P4	Retain CL-P4 as notified or retain intent.	n/a	Reject	Recommend deletion of policy.	No
325.99 ⁶³⁶⁴⁶⁵	Kainga Ora	CL-P4	Amend CL-P4: "Avoid adverse effects on human health-the health of people and the environment from the disposal of soil from contaminated land."	3.4	Reject	See body of the report.	No
FS104	Fuel Companies	CL-P4	<i>The Fuel Companies oppose CL-P4 as its intent is effectively captured by CL-P2 which seeks to apply good environmental practices to effectively manage risk and effects associated with contaminated land. Notwithstanding and for reasons previously stated, the Fuel Companies support the proposed amendment.</i>	3.4	Accept	<i>See submission point 276.15.</i>	N/A
326.143	RIDL	CL-P4	Retain CL-P4 as notified.	n/a	Reject	See body of the report.	No

Appendix C. Report Author's Qualifications and Experience

I hold the following qualifications:

- Master of Planning (First Class Honours) (Lincoln University)
- Bachelor of Arts (University of Canterbury).

I am an Intermediate Member of the New Zealand Planning Institute.

I have been employed as a Policy Planner at Waimakariri District Council within the Development Planning Unit since 2016. During this time, I have been involved in all stages of the District Plan Review (District Plan effectiveness analysis, issues and options analysis, chapter drafting, preparation of section 32 evaluation reports, public consultation and engagement, and summarising submissions). I was specifically involved in the development of the Noise, Light, Hazardous Substances, Contaminated Land, Earthworks and Temporary Activities chapters. I drafted the Contaminated Land s32 report and contributed to the Hazardous Substances s32 report.

I also have experience in resource consent planning at Christchurch City Council.