

**Before the Hearings Panel
At Waimakariri District Council**

Under Schedule 1 of the Resource Management Act 1991

In the matter of the Proposed Waimakariri District Plan

Between **Various Submitters**

And **Waimakariri District Council**

Respondent

**District Council reply on Whenua paitini - Contaminated Land
on behalf of Waimakariri District Council**

Date: 17 August 2023

INTRODUCTION:

- 1 My full name is Jessica Anneka Manhire. I am employed as a Policy Planner for Waimakariri District Council.
- 2 I have read the evidence and tabled statements provided by submitters relevant to the Section 42A Report – Matū mōrearea - Hazardous Substances AND Whenua paitini - Contaminated Land.
- 3 I have prepared this District Council reply on behalf of the Waimakariri District Council (District Council) in respect of matters raised through Hearing Stream 3 on the Contaminated Land Chapter.
- 4 I am authorised to provide this evidence on behalf of the District Council.

QUALIFICATIONS, EXPERIENCE AND CODE OF CONDUCT

- 5 Appendix C of my section 42A report sets out my qualifications and experience.
- 6 I confirm that I am continuing to abide by the Code of Conduct for Expert Witnesses set out in the Environment Court's Practice Note 2023.

SCOPE OF REPLY

- 7 This reply follows Hearing Stream 3 held on 25 July to 26 July 2023. Minute 7 of the Hearing Procedures allows for s42A report authors to submit a written reply by the 18th August 2023.
- 8 The main topics addressed in this reply include:
 - Answers to questions posed by the Hearings Panel
 - Matters remaining in contention
 - Changes to recommendations in the s42A report
 - Recommendations on general submissions that were not contained in the s42A report.
- 9 **Appendix 1** has a list of materials provided by submitters including expert evidence, legal submissions, submitter statements etc. This

information is all available on the Proposed District Plan Hearings page on the Council website.

- 10 **Appendix 2** has recommended amendments to PDP provisions, with updated recommendations differentiated from those made in Appendix A of the s42A report.
- 11 **Appendix 3** has an updated table of recommended responses to submissions and further submissions, with updated recommendations differentiated from those made in Appendix B of the s42A report.
- 2 **Appendix 4** has a s32AA Evaluation of the recommended new objective CL-O2.

Answers to questions posed by the Hearings Panel

- 1 A preliminary set of responses was provided to questions from the Panel at its hearing on 25 July 2023. This right of reply is in response to questions from the Hearings Panel in Minute 7. I have also provided responses to additional questions asked during the hearing.

General submissions

- 2 Clampett Investments Ltd (CIL) [284.1] and Rolleston Industrial Developments Ltd (RIDL) [326.2 and 326.3] seek that all controlled and restricted discretionary activities are amended to preclude them from limited or public notification. Royal Forest and Bird Protection Society Inc. (Forest and Bird) [FS78] oppose this relief on the basis that there may be instances where notification is appropriate. Andrea Marsden [FS199] and Christopher Marsden [FS120] both oppose RIDL [326.2] as they consider all applications should be open for community consultation to give communities a voice and removing this could risk the system being exploited. The Ohoka Residents Association [FS84 and FS137] oppose RIDL [326.2] and [326.3] on the basis that it is inconsistent with national policy direction and contrary to the Operative Plan and Proposed Plan. They oppose the “inappropriate satellite town” proposed in Ohoka.

- 3 RIDL [326.1] seeks that all provisions in the Proposed Plan are amended to delete the use of absolutes such as ‘avoid’, ‘maximise’ and ‘minimise’. There are four further submissions on RIDL [326.1], all opposed, from the Ohoka Residents Association [FS84], Andrea Marsden [FS119], and Christopher Marsden [FS120], and Forest and Bird [FS78]. Andrea Marsden [FS119] and Christopher Marsden [FS120] state that these absolutes have the purpose of ensuring compliance and removing them would open the system up for potential abuse. The Ohoka Residents Association [FS84 and FS137] reiterate their opposition to the “inappropriate satellite town” proposed in Ohoka and state that the RIDL submission is inconsistent with national policy direction. Forest and Bird’s [FS78] reasoning did not relate to this submission point, rather it stated that there may be instances where it is appropriate to notify consents.
- 4 These have been considered in the subsequent reports following Hearing Streams 1 and 2. However, I did not consider these submissions in my Hazardous Substances and Contaminated Land s42A Report but have considered them since.
- 5 In regard to the Contaminated Land Chapter, there are no rules in the chapter so notification clauses are irrelevant.
- 6 The Contaminated Land Chapter does include the term ‘avoid’, in CL-P4. This gives effect to the RPS which directs territorial authorities under policy 17.3.2 to set out objectives, policies or methods in district plans to require that “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”.
- 7 The terms ‘maximise’ and ‘minimise’ are not used in the chapter.

New objective

Please provide comment on Kāinga Ora’s requested objective and policy recognising the benefits of the remediation of contaminated land, including scope.

- 8 Kainga Ora [325.95] seeks a new objective to recognise the positive effects associated with the remediation of contaminated soils. In Ms Dale’s summary statement, on behalf of Kainga Ora, she considers the wording of the objective would be better if it were split into an objective and policy as follows:

CL-O2 Benefits of contaminated land remediation

Recognise that best practice approaches to remediation of contaminated land can have benefits for communities and the environment.

CL-P4 Benefits of contaminated land via best practice approaches, in recognition that remediation can have positive effects in relation to, the health and wellbeing of communities, increased availability of land and for the natural environment.

- 9 As outlined in the s42A evaluation report, 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. However, in Ms Dale’s evidence she has pointed out that the introductory and explanatory text for some of the provisions do acknowledge that the territorial authorities and Environment Canterbury need to work together to achieve positive environmental outcomes and that activities “*may assist in the mitigation of adverse effects of contaminated land by containing the contamination and limiting human and animal access to the contamination*”.

- 10 She also points out that, under the RMA, ‘effects’ includes positive effects, and would enable a balancing of positive and adverse effects in a decision. The legal submission on behalf of Kainga Ora, considered there to be no legal impediment to the inclusion of the objective.

- 11 I am satisfied that sufficient information has now been provided to justify the inclusion of the objective and have undertaken a s32AA

evaluation, attached as **Appendix 4**. The objective can be considered along with the notified objective CL-O1, regarding adverse effects. I note that a council cannot take into account positive effects from the proposal when considering whether the effects will be minor but can have regard to mitigating factors, for example, how the remediation is undertaken to mitigate the adverse effects. In Table 1 below, I have considered which Contaminated Land Chapter policies would give effect to the objectives.

12 Table 1 – Contaminated Land objectives and associated policies

<p>CL-O1</p> <p>Contaminated land</p> <p>The subdivision, use and development of contaminated land does not adversely affect people, property, and the environment.</p>	<p>CL-P1</p> <p>Identify contaminated sites</p> <p>Identify sites potentially containing contaminated land, including sites with contamination from current and historical land uses and activities, by using the Regional Council’s LLUR, <u>District Council records</u>,¹ and coordinating with the Regional Council in the recording and management of contaminated land.</p>
	<p>CL-P2</p> <p>Best practice management of contaminated land</p> <p>Require applications for subdivision, <u>change of</u>²use or development of contaminated land, or potentially</p>

¹ ECan [316.44]

² Kainga Ora [325.97]

	<p>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 health of people</u>³ 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.</p>
	<p>CL-P3</p> <p>Earthworks on contaminated land</p> <p>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>⁴.</p>

³ Fuel Companies [276.13]

⁴ ECan [316.46]

	<p>CL-P4</p> <p>Disposal of contaminated soil</p> <p>Avoid adverse effects on the health of people and the environment from the disposal of soil from contaminated land.</p>
<p>CL-O2</p> <p>Benefits of contaminated land remediation</p> <p>Remediation of contaminated land, using good practice approaches to protect against the risk posed by the contaminants to human health and the environment, results in positive effects for the health and wellbeing of communities, cultural values, and the environment.</p>	<p>CL-P2</p> <p>Best practice management of contaminated land</p> <p>Require applications for subdivision, <u>change of</u>⁵use or development of contaminated land, or potentially contaminated land, <u>to apply a good practice approach to the</u> include an investigation <u>management</u> of the risks and to remediate the contamination, or manage activities on contaminated land, to protect the <u>human</u> health of people⁶ 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</p>

⁵ Kainga Ora [325.97]

⁶ Fuel Companies [276.13]

	than if remediation had not occurred.
	<p>CL-P3</p> <p>Earthworks on contaminated land</p> <p>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>⁷.</p>
	<p>CL-P4</p> <p>Disposal of contaminated soil</p> <p>Avoid adverse effects on the health of people and the environment from the disposal of soil from contaminated land.</p>

- 13 I consider the remediation of contaminated land is already covered by the policies CL-P2 (*remediate the contamination...to protect the health of people and the environment*) and CL-P3 (*discourage the disturbance of contaminated land, unless for the purpose of contamination remediation*), and to some extent CL-P4 (disposal following the remediation). Therefore, I consider a policy is not needed.
- 14 I have considered the wording of the objective requested by Ms Dale. The requested objective refers to best practice approaches, which would align with the Resource Management (National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human

⁷ ECan [316.46]

Health) Regulations 2011 (NESCS), for example regulation 8 regarding controls to minimise the exposure of humans to mobilised contaminants for the activity to be permitted. I note that 'best practice' can be interpreted to mean different things, and what is 'best practice' depends on the nature and extent of contamination. Therefore, I recommend wording that includes reference to reducing risk on human health and the environment so that remediation is done appropriately and effectively. In my s42A report and my response to preliminary questions, I recommended the term "good practice" rather than "best practice" in CL-P2 as it would align better with the NESCS as it is a term used in the contaminated land management guidelines. For consistency, I recommend a new objective also refers to "good practice". I also suggest it can expand on the benefits of remediation to better address the outcome the objective seeks to achieve.

15 I recommend if an objective is included that it be written as follows:

CL-O2 Benefits of contaminated land remediation

Remediation of contaminated land, using good practice approaches to protect against the risk posed by the contaminants to human health and the environment, results in positive effects for the health and wellbeing of communities, cultural values, and the environment.

CL-P3 and natural values

16 ECan sought clarification for the term "natural values" referred to in CL-P3. The s42A recommendation was accepted by Ms Dale's evidence on behalf of Kainga Ora, Mr Rowe's evidence of behalf of the Fuel Companies, and Ms Mitten's evidence on behalf of the Canterbury Regional Council.

17 In the hearing, I was asked what natural values in CL-P3 addresses and whether there are any that are not ecological values. As outlined in my

s42A report⁸, there is a residual risk of flora and fauna being affected directly where contaminated land is disturbed where there was no discharge involved. In my response to preliminary questions, I noted that the inclusion of “including ecological values” after natural values doesn’t necessarily clarify natural values but it extends the understanding of the term and would trigger plan users to look at other chapters where the term is used.

- 18 Natural values is used in relation to the Puketeraki Range and Oxford Foothills - Outstanding Natural Landscape, the Earthworks Chapter regarding rehabilitation, and in the noise and light chapters regarding effects on natural values. There is the potential that if the policy is amended to delete the reference to natural values then the link to these chapters could be lost.
- 19 The term ‘ecological values’ is used in the Sites and Areas of Significance to Māori Chapter in relation to providing for the enhancement of ecological values in wāhi tapu and wāhi taonga sites; in the Ecosystems and Indigenous Biodiversity Chapter in regards to indigenous vegetation; the Natural Character of Freshwater Bodies Chapter in regards to attributes of freshwater bodies; the Coastal Environment Chapter regarding the Ashley River/Rakahuri Saltwater Creek Estuary supporting very high ecological values; and the Noise Chapter in regards to adverse effects of noise on ecological values.
- 20 Considering the above, I retain my recommendation in the s42A report.

Disposal of contaminated soil (deletion of CL-P4)

- 21 The Fuel Companies sought deletion of CL-P4, which I recommended be accepted in section 3.9 of the Hazardous Substances and Contaminated Land s42A report. The Statement of Evidence of Ms Mitten on behalf of the Canterbury Regional Council disagreed with the recommendation, as

⁸ Paragraph 139

she considers CL-P2 “does not specifically address the disposal of soil from contaminated land”⁹.

- 22 As outlined in my preliminary response to panel questions, in Appendix A of the s42A report, I recommend amendment to CL-P2 to “*apply a good practice approach to the management of risks to protect human health and the environment*”.
- 23 The good practice approach is referred to in the *Ministry for the Environment contaminated land management guidelines*¹⁰ and is referenced in the NESCS¹¹. I consider a “good practice approach” and “management” includes the removal and disposal of soils that are contaminated at a facility authorised to receive such waste. Removal at a facility authorised to receive such waste is also a requirement under the NESCS clause 8(1)(f) and clause 8(3)(e). Therefore, I consider that it is covered by my recommended amendments to CL-P2.
- 24 I consider the addition of the words “along with the disposal of contaminated soil” requested by ECan into CL-P2 would not make the policy any longer than the notified policy. While the disposal of contaminated soil may be less obvious with the deletion of CL-P4, it can still be provided in CL-P2, as requested by ECan, and I consider there is no harm in doing so. While I consider the disposal of contaminated soil is already covered by the policy, I have given it further consideration and my view is there would be benefit to include the reference to ensure it is not missed by plan users. I recommend that if the disposal of soil is to be included in CL-P2 that it also includes other materials taken away in the course of the activity. This would align with the NESCS as this is a consideration for controlled and restricted discretionary activities under the NESCS. I recommend the following wording if CL-P2 is amended:

⁹ Page 29

¹⁰ E.g. Ministry for the Environment (2021). *Contaminated land management guidelines No 1: reporting on contaminated sites in New Zealand*. Retrieved from <https://environment.govt.nz/assets/publications/Files/contaminated-land-management-guidelines-no-1.pdf>

¹¹ Hazardous Substances and Contaminated Land s42A Report, Paragraph 104

“Require applications for subdivision, change of use or development of contaminated land, or potentially contaminated land, to apply a good practice approach, including the disposal of contaminated material at an authorised facility, to the include an investigation management of the risks and 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.”

25 However, I have undertaken an analysis of the costs and benefits of the approaches in Table 2 below. The comparison table below demonstrates that retaining the policy has more pros versus cons compared to the other options.

26 Table 2 – Disposal of contaminated soil options

Options	Pros	Cons
Retain CL-P4	<ul style="list-style-type: none"> • Will not be missed by plan users • Disposal is a consideration under the NESCS and provides an integrated approach. • Ensures contaminated land policies are consistent with the CRPS. • Provides a greater level of policy 	<ul style="list-style-type: none"> • Duplication

	direction for addressing contaminated land.	
Delete CL-P4 and amend CL-P2 to include the disposal of soil	<ul style="list-style-type: none"> • Already covered by policy but specific reference would ensure it is not missed by plan users. • Disposal is a consideration under the NESCS. • Ensures contaminated land policies are consistent with the CRPS. • Provides a greater level of policy direction than option below. 	<ul style="list-style-type: none"> • Duplication. • Lengthens policy. •
Delete CL-P4	<ul style="list-style-type: none"> • Reduces duplication. 	<ul style="list-style-type: none"> • May be missed by plan users. • Less policy direction.

27 Therefore, I have changed my view outlined in the s42A and recommend retaining CL-P4. I have shown this change to the s42A in blue in Appendix 2 below.

Date: 17/8/2023

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Appendix 1 – List of materials provided by submitters

Statement of Evidence of Joanne Mitten on behalf of The Canterbury Regional Council – Submission 316 and further submission 105

Legal Submissions On Behalf Of The Canterbury Regional Council – Submission 316 and further submission 105

Statement of Primary Evidence of Clare Dale on behalf of Kāinga Ora – Homes And Communities (Contaminated Land) - Submission 325 and further submission 88

Legal Submissions On Behalf Of Kāinga Ora – Homes And Communities - Submission 325 and further submission 88

Summary Statement of Clare Dale on behalf of Kainga Ora - Homes and Communities - Submission 325 and further submission 88

Statement Of Evidence Of Miles Rowe For BP Oil New Zealand Limited, Mobil Oil New Zealand Limited, And Z Energy Limited (The 'Fuel Companies') – submission 276 and further submission 104

Speaking notes of Miles Rowe for submitter – submission 276 and further submission 104

Appendix 2 – Recommended amendments to PDP provisions

In order to distinguish between the recommendations made in the s42A report and the recommendations that arise from this report:

- s42A recommendations are shown in black text (with underline and ~~strike-out~~ as appropriate); and
- Recommendations from this report in response to evidence are shown in blue text (with underline and ~~strike-out~~ as appropriate).

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 water¹².

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

¹² Fuel Companies [276.11]

	The subdivision, use and development of contaminated land does not adversely affect people, property, and the environment.
CL-O2	Benefits of contaminated land remediation <u>Remediation of contaminated land, using good practice approaches to protect against the risk posed by the contaminants to human health and the environment, results in positive effects for the health and wellbeing of communities, cultural values, and the environment.</u> ¹³
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 Regional Council's LLUR, <u>District Council records</u> , ¹⁴ 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> ¹⁵ use or development of contaminated land, or potentially contaminated land, <u>to apply a good practice approach to the</u> include an investigation management of the risks and to remediate the contamination, or manage activities on contaminated land, to protect the <u>human</u> health of people ¹⁶ 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> ¹⁷ .
CL-P4	Disposal of contaminated soil <u>Avoid adverse effects on the health of people and the environment from the disposal of soil from contaminated land.</u> ¹⁸

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

Advice Notes

¹³ Kainga Ora [325.95]

¹⁴ ECan [316.44]

¹⁵ Kainga Ora [325.97]

¹⁶ Fuel Companies [276.13]

¹⁷ ECan [316.46]

¹⁸ Fuel Companies [276.15]

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 contaminated, land. However, the objectives and policies in the District Plan apply to the assessment of any resource consent application.• 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 3 – Recommended responses to submissions and further submissions

In order to distinguish between the recommended responses in the s42A report and the recommended responses that arise from this report:

- Recommendations from this report in response to evidence are shown in blue text (with underline and ~~strike-out~~ as appropriate).

[insert relevant rows from Appendix B of your s42A report]

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?
<u>General provisions</u>							
<u>284.1</u>	<u>CIL</u>	<u>General</u>	<u>Amend all controlled and restricted discretionary activity rules:</u> <u>"Applications shall not be limited or publicly notified, on the basis of effects associated specifically with this rule and the associated matters of control or discretion."</u>	<u>N/A</u>	<u>Reject</u>	<u>See paragraphs 13-18 of right of reply.</u>	<u>No</u>
<u>326.1</u>	<u>RIDL</u>	<u>General</u>	<u>Amend the Proposed District Plan to delete the use of absolutes such as 'avoid', 'maximise' and 'minimise'.</u>	<u>N/A</u>	<u>Reject</u>	<u>See paragraphs 13-18 of right of reply.</u>	<u>No</u>
<u>FS78</u>	<u>Forest and Bird</u>		<u>Oppose - there may be instances where it is appropriate to notify consents</u>	<u>N/A</u>	<u>Accept</u>	<u>See paragraphs 13-18 of right of reply.</u>	<u>No</u>
<u>FS84</u>	<u>Ohoka Residents</u>		<u>Oppose – "Refer to ORA submission on RCP031 for further detail. It is inconsistent with the policy direction set out in the</u>	<u>N/A</u>	<u>Accept</u>	<u>See paragraphs 13-18 of right of reply.</u>	<u>No</u>

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?
	Association		<p>National Policy Statement for Highly Productive Land. It is also inconsistent with the objectives of the National Policy Statement on Urban”</p> <p>“ORA oppose any and every amendment requested to the Proposed District Plan that supports RIDL's hugely unpopular, unwanted and inappropriate satellite town to be developed in Ohoka . We want the Council to disregard all submissions from RIDL, The Carter Group Limited and Chapmann Tripp that are designed to facilitate RCP031”</p> <p>Disallow the submission</p>				
FS119	Andrea Marsden	FS119	<p>Oppose – RIDL suggest limited the use of absolutes i.e. maximum, within the Waimakariri District Plan. The these attributes exist is surely to ensure compliance with the District Plan so should be included as they stand to prevent private developers doing exactly as they please”</p> <p>Limiting the use of absolutes as suggested by RIDL opens the system up to potential abuse. As RIDL are proposing a Plan</p>	N/A	Accept	See paragraphs 13-18 of right of reply.	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?
			<u>Change 31 which directly affects my property, this change to wording must not be allowed.</u> <u>Disallow</u>				
<u>FS120</u>	<u>Christopher Marsden</u>		<u>Oppose – RIDL are seeking to limit the use of absolutes, i.e. 'maximum', 'avoid' in the Waimakariri District Plan – this plan covers Ohoka where I live. However these absolutes exist to ensure compliance with the District Plan so should be included as they stand.</u> <u>Disallow</u>	<u>N/A</u>	<u>Accept</u>	<u>See paragraphs 13-18 of right of reply.</u>	<u>No</u>
<u>326.2</u>	<u>RIDL</u>	<u>General</u>	<u>Amend so that all controlled and restricted discretionary activity rules include the following wording, or words to like effect:</u> <u>"Applications shall not be limited or publicly notified, on the basis of effects associated specifically with this rule and the associated matters of control or discretion."</u>	<u>N/A</u>	<u>Reject</u>	<u>See paragraphs 13-18 of right of reply.</u>	<u>No</u>
<u>FS78</u>	<u>Forest and Bird</u>		<u>Oppose - there may be instances where it is appropriate to notify consents</u>	<u>N/A</u>	<u>Accept</u>	<u>See paragraphs 13-18 of right of reply.</u>	<u>No</u>

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?
FS199	Andrea Marsden		<p><i><u>Oppose – RIDL are proposing that the wording be altered to include unlimited applications which do not need to be publicly notified. However all applications should be notified and open for consultation to give local communities a voice.</u></i></p> <p><i><u>The District Plan covers Ohoka. RIDL have proposed a Plan Change 31 for this area and adopting unlimited applications and non-notifications will open the system up to exploitation so the change of wording must be declined.</u></i></p> <p><i><u>Disallow</u></i></p>	N/A	Accept	See paragraphs 13-18 of right of reply.	No
FS120	Christopher Marsden		<p><i><u>Oppose – RIDL are proposing that the wording be altered to include unlimited applications which do not need to be publicly notified. However all applications should be notified and open for consultation to give local communities a voice.</u></i></p> <p><i><u>The District Plan covers the area where we live, Ohoka. RIDL have proposed a Plan Change 31 for this area and adopting unlimited applications and non-notifications will open the system up to exploitation.</u></i></p> <p><i><u>Disallow</u></i></p>	N/A	Accept	See paragraphs 13-18 of right of reply.	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?
326.3¹⁹	RIDL	General	Amend controlled and restricted discretionary activity rules to provide direction regarding non-notification.	N/A	Reject	See paragraphs 13-18 of right of reply.	No
FS78	Forest and Bird		Oppose - There may be instances where it is appropriate to notify consents	N/A	Accept	See paragraphs 13-18 of right of reply.	No
Contaminated Land - General							
295.86	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	Amend introduction to Contaminated Land Chapter:	3.4	Accept in part	Accept amendments for consistency with the NESCS and to accurately reflect	Yes

¹⁹ Oppose - Forest and Bird [FS78] – Officer's 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?
			<p>"...</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 <u>subdivision, use or development of contaminated land as this is regulated implements resource consents</u> under the NESCS. <u>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.</u></p> <p>...</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</p>			<p>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.</p>	

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?
			adverse effects from discharges of contaminants into or onto contaminated land, air or water. ..."				
325.93	Kainga Ora	Introduction	Amend the introduction of the Contaminated Land Chapter: "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. ..."	3.4	Reject	See body of the report.	No
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: " <u>CL-O2 Positive benefits from treatment and remediation of contaminated land</u> "	3.6	Reject <u>Accept in part</u>	See body of the report. <u>I agree with the reasons provided in the Statement of Primary Evidence of Clare</u>	No <u>Yes</u>

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?
			<u>Remediation of contaminated land contributes to the health and wellbeing of communities, including increased availability of land for housing and business activities."</u>			Dale, and Legal Submissions, on behalf of Kāinga Ora. There are benefits from remediation, and the objectives can be read together. The objective can be considered along with the notified objective CL-O1, regarding adverse effects.	
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 <i>in part</i>	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)(ia) of the RMA and the RPS.	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?
284.135	CIL	CL-O1	Retain CL-O1 as notified.	n/a	Accept	Agree with submitter.	No
316.43 ²⁰	ECan	CL-O1	Retain CL-O1 as notified or retain intent.	n/a	Accept	Agree with submitter.	No
325.94	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 adversely affect people, property, and the environment.</u> "	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 effects, the former being better aligned with intent of the NES:CS.</i>		Reject	<i>Notified version gives effect to Section 31(1)(b)(iia) of the RMA and the RPS.</i>	No
326.139	RIDL	CL-O1	Retain CL-O1 as notified.	n/a	Accept	Agree with submitter.	No
Contaminated Land – Policies							

²⁰ 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?
316.48	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

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?
316.44 ²¹	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
325.96	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

²¹ 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?
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 <u>management of the risks to remediate the contamination, or manage activities on contaminated land,</u> 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

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?
316.45 ²²²³	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	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 remediation is just one option of managing effects of</i>	3.4	Accept in part	See submission point 276.13.	N/A

²² Support – CIAL [FS80] – officer recommendation: accept

²³ 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>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	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	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

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?
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 <u>Reject</u>	Agree with submitter that the intent is covered by CL-P2. However, I consider specific reference would be beneficial to ensure it is not missed by plan users.	Yes <u>No</u>
284.139	CIL	CL-P4	Retain CL-P4 as notified.	n/a	Reject <u>Accept</u>	Recommend deletion of policy. See reasons in right of reply for contaminated land.	No
316.47	ECan	CL-P4	Retain CL-P4 as notified or retain intent.	n/a	Reject <u>Accept</u>	Recommend deletion of policy. See reasons in right of reply for contaminated land.	No
325.99	Kainga Ora	CL-P4	Amend CL-P4: "Avoid adverse effects on <u>human health</u> 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</i>	3.4	Accept	<i>See submission point 276.15.</i>	<i>N/A</i>

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>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>		Reject		
326.143	RIDL	CL-P4	Retain CL-P4 as notified.	n/a	Reject Accept	See body of the report. See reasons in right of reply for contaminated	No

Appendix 4: s32AA Evaluation of New Objective CL-O2

A new objective is recommended to be included as set out in Appendix 2 (updated s42A Appendix A), and below: The following tables provide an evaluation of the recommended amendments to the objectives.

CL-O2

Benefits of contaminated land remediation

Remediation of contaminated land, using good practice approaches to protect against the risk posed by the contaminants to human health and the environment, results in positive effects for the health and wellbeing of communities, cultural values, and the environment.

Table C 1: Recommended Amendments to Objectives

Relevance	<p>Addresses a relevant resource management issue</p> <p>There is benefit from the remediation of land that is contaminated including releasing brownfield land that is consequently suitable for housing or business activities; preventing the continued leaching of contaminants into waterways (rivers, streams, estuaries and the sea) or ground water; restoration which improves water quality and ecosystems, creating habitats for flora and fauna; restoring cultural values such as the mauri of water/land and mahinga kai; and improving health outcomes for communities that have been exposed to contamination.</p>
	<p>Assists the District Council to undertake its functions under s31</p> <p>In particular, it would assist to achieve the following: S31(1)(a) integrated management (e.g. territorial authorities and Environment Canterbury working together to achieve positive environmental outcomes) (1)(a)(a) sufficient development capacity in respect of housing and business land</p>

Proposed Waimakariri District Plan

	(1)(b)(ii) the prevention or mitigation of any adverse effects of the development, subdivision, or use of contaminated land.
	<p>Gives effect to higher level documents</p> <p>Under the RMA s3(a), effect includes any positive or adverse effect.</p> <p>Achieves the purpose of the RMA.</p> <p>Gives effect to the RPS as existing contaminated land will be remedied or managed as appropriate to avoid exacerbation or continuation of adverse environmental effects.</p>
Usefulness	<p>Guides decision-making</p> <p>The new objective will better guide decision makers to consider both the adverse effects and positive effects of remediation of contaminated land.</p>
	<p>Meets best practice for objectives</p> <p>The new objective is clear on the outcome to be achieved and uses best practice for the writing of an objective.</p>
Reasonableness	<p>Will not impose unjustifiably high costs on the community / parts of the community</p> <p>No additional costs on the community or parts of the community will be generated by the recommended objective.</p>
	<p>Acceptable level of uncertainty and risk</p> <p>There is no additional uncertainty or risk associated with the recommended amendments.</p>
Achievability	<p>Consistent with identified tangata whenua and community outcomes</p> <p>Seeks to result in positive effects for the health and wellbeing of communities and cultural values.</p>
	<p>Realistically able to be achieved within the District Council's powers, skills and resources</p>

Proposed Waimakariri District Plan

	Can be considered for discretionary and non-complying activities.
Conclusion	The recommended amended objectives are the most appropriate way to achieve the purpose of the RMA by providing a coherent package of desired outcomes consistent with sustainable management.

Overall, the recommended objective provides greater clarity on the outcomes sought to be achieved with the remediation of contaminated land. For the purposes of sections 32 and 32AA, I consider that the revised objectives are the most appropriate way of achieving the purpose of the RMA.