

**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

**Council Officer's Preliminary Response to written questions on
Contaminated Land on behalf of Waimakariri District Council**

Date: 25 July 2023

INTRODUCTION:

1 My full name is Jessica Anneka Manhire. I am employed as a Policy Planner for Waimakariri District Council.

2 The purpose of this document is to respond to the list of questions published from the Hearings Panel in response to my s42A report.

3 In preparing these responses, I note that I have not had the benefit of hearing evidence presented to the panel at the hearing. For this reason, my response to the questions may alter through the course of the hearing and after consideration of any additional matters raised.

4 I also note that given the timing of these questions, my preliminary responses in some instances have not been informed by consideration of evidence or legal submissions lodged with the Council following the issuing of my s42A report. Where I have considered such evidence, I have recorded this within the preliminary answers below.

5 Following the conclusion of this hearing, a final right of reply document will be prepared outlining any changes to my recommendations as a result of evidence presented at the hearing, and a complete set of any additions or amendments relevant to the matters covered in my s42A report.

6 The format of these responses in the table below follows the format of the questions from the Panel.

7 I am authorised to provide this evidence on behalf of the District Council.

Date: 25/07/2023



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CL – Contaminated Land

Paragraph or Plan reference	Question
Section 3.7.3	Please set out your recommendation on the ECan submission point 316.48
<p>My recommendation is reject as per Appendix B of the s42A report. It was discussed in the body of the report but was missed from the summary of recommendations in the body of the report.</p>	
Para 139	Please explain how the inclusion of “including ecological values” after natural values clarifies what “natural values” means.
<p>It doesn't necessarily clarify natural values but it extends the understanding of the term. The term 'ecological values' would trigger plan users to look at those other chapters where the term is used (Ecosystems and Indigenous Biodiversity, Natural Character of Freshwater Bodies, and Coastal Environment). If you just have natural values you would not necessarily look at the other chapters. RPS policies also include the term such as Policy 10.3.2 Protection and enhancement of areas of river and lake beds and their riparian zones.</p>	
Para 145	Would you not consider that because CL-P4 relates specifically to disposal of contaminated soil it is not really covered by CL-P2 (which relates to management of contaminated land and not soils as such)? Whilst landfills might be covered by the zone provisions how is the transportation and indiscriminate dumping of soils (not in landfills) addressed in terms of CL-P2. Would a specific reference to disposal of contaminated soil added to CL-P2 be warranted if CL-P4 is to be deleted?
<p>The full definition of contaminated land under section 2 of the RMA is:</p> <p><i>"contaminated land means land that has a hazardous substance in or on it that -</i></p>	

has significant adverse effects on the environment; or

is reasonably likely to have significant adverse effects on the environment."

I consider that contaminated land includes contaminated soil, as soil is a component part of land.

The regional council is responsible for discharges but there may be a potential gap where the dumping of soil is not a discharge under s15 of the RMA¹. This legislative gap was the reason for the inclusion of Policy CL-P3. CL-P3 was also intended to provide a link to the earthworks chapter to discourage the disturbance of contaminated land, where it is not a discharge, and where it could adversely affect natural values, except for the purpose of contamination remediation.

As the definition of earthworks includes the moving and placing of soil, the transportation and dumping of soils may also be covered under earthworks provisions (where thresholds are exceeded). There are standards in the Earthworks Chapter that minimise adverse effects including water body setbacks and material used for filling. No earthworks are permitted in certain areas such as Ashley River/Rakahuri Saltwater Creek Estuary, and SNAs.

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”.

The good practice approach is referred to in the Ministry for the Environment contaminated land management guidelines² and is referenced in the NESCS³.

¹RMA s15 (1)

No person may discharge any—

- (a) contaminant or water into water; or
- (b) contaminant onto or into land in circumstances which may result in that contaminant (or any other contaminant emanating as a result of natural processes from that contaminant) entering water; or
- (c) contaminant from any industrial or trade premises into air; or
- (d) contaminant from any industrial or trade premises onto or into land—

² 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>

³ Hazardous Substances and Contaminated Land s42A Report, Paragraph 104

I consider a “good practice approach” and “management” includes the removal and disposal of soils that are contaminated.

However, there would be no harm in including a specific reference in CL-P2. If the panel are of that view, then I consider the wording provided in ECan’s evidence⁴ would provide for this matter, or CL-P4 can be retained.

⁴ Statement of Evidence of Joanne Mitten on behalf of The Canterbury Regional Council