



## SECTION 32 REPORT Contaminated Land

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## **1 Executive Summary**

Land can become contaminated when hazardous substances are not used, stored or disposed of in an appropriate way. Contaminated land is commonly associated with past activities such as the manufacture and use of pesticides, timber treatment and sheep dipping. People can be exposed to contaminated land by direct contact with contaminated soil, swallowing food or water from contaminated environments and breathing vapours or contaminated dust. As well as endangering health, contamination can limit the use of land or cause corrosion that may threaten buildings and property. It is important that sites in the district identified as being potentially contaminated are investigated further so people are not exposed to contaminants that may affect their health.

The Operative District Plan recognises the importance of protecting the health and safety of individuals from the risks associated with the use, subdivision or development of potentially contaminated and contaminated sites. However, its effectiveness is limited because it does not acknowledge the role of the Resource Management (National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health) Regulations 2011 (NESCS) which came into effect after the Operative District Plan. The policy framework also lacks specific direction and is considered to be out of date. It does not clearly specify the roles and responsibilities of the District Council compared to those of the Regional Council in relation to contaminated land.

The key resource management issue for managing contaminated land is that:

- The subdivision, use, and development of contaminated land can lead to adverse effects on human health, when the necessary remediation or management measures have not been undertaken prior to use.

The key changes introduced for Contaminated Land are:

- A standalone chapter and specific objective and policy framework for contaminated.
- Reference to the NESCS for managing the risk of the subdivision, use and development of contaminated land within the district.

The Proposed Plan will improve outcomes by providing a clear, strengthened approach to the management of contaminated land in the district.

## **2 Introduction and Purpose**

The report contains a section 32 evaluation of the objectives, policies and methods relating to Contaminated Land in the Proposed New Plymouth District Plan (Proposed District Plan). It is important to read this report in conjunction with the section 32 overview report which contains further information and evaluation about the overall approach and direction of the District Plan review and the Proposed District Plan.

The health and wellbeing of people and the environment is prioritised within the District. The prevention or mitigation of any adverse effects of the development, subdivision or use of contaminated land is important so that people are not exposed to the health and safety risks associated with disturbance or use of contaminated land

by direct or indirect contact. Therefore, the risks associated with potentially contaminated land should be appropriately managed or remediated.

The report sets out the statutory and policy context for Contaminated Land, the key resource management issues, specific consultation and the evaluation of this topic to decide on the proposed provisions. The report also includes a review of the existing plan provisions and an evaluation of alternative methods to achieve the purpose of the Resource Management Act 1991 (RMA) in relation to the Contaminated Land matters. This Section 32 report specifically focuses on the prevention or mitigation of any adverse effects of the development, subdivision or use of contaminated land, which is the District Council's responsibility under Section 31 of the RMA. The proposed plan also contains a Hazardous Substances chapter, which is related to, and has some overlap with, the contaminated land topic. The evaluation for the hazardous substances topic is set out in the Section 32 Evaluation specific to that topic.

### **3 Statutory and Policy Context**

#### **3.1 Resource Management Act**

The Resource Management Act (RMA) sets out in Section 31 the functions of territorial authorities. The key function for the district council is the integrated management of the use, development, or protection of land and associated natural and physical resources of the district.

More specifically, Section 31(b)(iia) outlines that a territorial authority is responsible for *"the control of any actual or potential effects of the use, development or protection of land, including for the purpose of the prevention or mitigation of any adverse effects of the development, subdivision, or use of contaminated land."*

Section 7 of the RMA is of relevance to contaminated land and requires that a District Council have particular regard to the following matters:

*(b) The efficient use and development of natural and physical resources.*

*(f) Maintenance and enhancement of the quality of the environment.*

Section 8 of the RMA requires the district council to take into account the principles of the Treaty of Waitangi (Te Tiriti o Waitangi). Tangata whenua, through iwi authorities have been consulted as part of the District Plan review process. This feedback has informed the section 32 evaluation, and the obligation to make informed decisions based on that consultation is noted.

#### **3.2 National Planning Standard**

Released in April 2019, the purpose of the National Planning Standards (planning standards) is to improve consistency in plan and policy statement structure, format and content.

The standards were introduced as part of the 2017 amendments to the Resource Management Act 1991 (RMA). Their development is enabled by sections 58B–58J of the RMA. They support implementation of other national direction such as national policy statements and help people to comply with the procedural principles of the RMA.

As discussed in the Overview Report, the Proposed District Plan will give effect to the planning standards, and includes a 'contaminated land' chapter under the 'Hazards and risks' heading. It also uses the standardised definition of 'contaminated land'.

### **3.3 Resource Management (National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health) Regulations 2011**

The NESCS is a nationally consistent set of planning controls which must be enforced by a District Council under section 44A(8) of the RMA. It was developed to achieve a consistent Nation-wide approach to manage issues with the legacy of past use of chemicals in industry, agriculture and horticulture which has left soil contamination, mainly associated with past practices involving the storage and use of hazardous substances, and disposal of hazardous wastes.

Under section 44A of the RMA, a District Plan must not contain rules that duplicate or conflict with a provision in a national environmental standard. The NESCS contains regulations to land that has been historically or presently used for activities identified in the Hazardous Activities and Industries List (HAIL). HAIL is a collection of activities and industries that are considered likely to cause land contamination of land from hazardous substance use, storage or disposal. The HAIL list groups similar industries together, particularly those that typically use or store hazardous substances that could cause contamination if such substances escaped from safe storage, or were disposed on the site, or were lost to the environment through their use. The HAIL list is used by Taranaki Regional Council to help inform the localised Register of Selected Land Uses (RSLU) database. The Regional Council maintains the RSLU, updating information when it arises as part of our investigations, our regular monitoring and inspections programmes, and responses to unauthorised incidents. Information also comes from consultants carrying out site investigations, and from property owners or members of the public. The information is available by using Taranaki Regional Council online GIS maps or by making a written request to Taranaki Regional Council.

Under the NESCS a proposal may be considered a permitted, controlled, restricted discretionary or discretionary activity. The following activities are considered a permitted activity under the NESCS (as long as the activities comply with the relevant standards outlined in the NESCS):

- Removing or replacing fuel storage system;
- Sampling soil;
- Small-scale soil disturbance; and
- Subdividing or changing land use.

Activities requiring a resource consent under the NESCS include:

- The development of land where the risk to human health from soil contamination does not exceed the applicable soil contaminant value (classified as a controlled activity, meaning resource consent must be granted).
- The development of land where the risk to human health from soil contamination exceeds the applicable soil contaminant value (classified as a restricted discretionary activity).
- The development of land where the activity does not meet the requirements to be a restricted discretionary, controlled or permitted activity (classified as a discretionary activity).

Based on this, any District Plan provisions relating to activities and land use on contaminated land should recognise the role of the NESCS, should not duplicate or conflict with the NESCS, and should recognise its importance in identifying contaminated sites and subsequently protecting community health and wellbeing from the adverse effects of contaminated land.

### 3.4 Regional Policy Statement

Under Section 75(3)(c) of the RMA, the Proposed District Plan must give effect to the Regional Policy Statement. The Taranaki Regional Policy Statement 2010 (RPS) recognises the importance of managing the subdivision, use and development of contaminated sites within the region. The RPS provides specific direction for the district council on the management of contaminated land through the following method, which the territorial authority may wish to consider:

- HZC OBJECTIVE 1 *"To avoid, remedy, or mitigate adverse environmental effects arising from the storage, use, transportation and disposal of hazardous substances in the Taranaki region, including adverse environmental effects arising from existing contaminated sites."*
- HZC POLICY 4 *"All known and potentially contaminated sites in the Taranaki region will be identified and managed in a manner that:  
(a) avoids or mitigates potential adverse environmental effects;  
(b) mitigates or remedies actual adverse environmental effect; and  
(c) avoids or mitigates potential adverse effects on human health."*
- HZC METH 16 *"Consider, in the preparation of district plans provisions for the management of contaminated or potentially contaminated land in accordance with information gathered from investigations, monitoring or other sources including those identified through Method 6."*

HZC METH 16 directs the District Council to consider including provisions for the management of potentially contaminated land.

The RPS acknowledges that the Regional Council also has a significant role in managing contaminated land, particularly in relation managing discharges of hazardous substances and remediation, and identification of contamination through the selected land use register. Under the RPS, the Taranaki Regional Council is responsible for the following:

- HZC METH 1 *"Maintain a regional plan or plans with objectives, policies and methods of implementation addressing the discharges of contaminants to the environment, including hazardous substances, and addressing ongoing contamination arising from past discharges."*
- HZC METH 2 *"Apply regional rules to regulate the discharge of hazardous substances."*
- HZC METH 6 *"Identify, investigate, monitor and gather information on all known or potentially contaminated sites and their management."*
- HZC METH 7 *"Maintain a register of selected land uses which contains all sites known to Council where it is considered there has been the potential for contamination and include in the register details of all investigations and assessments carried out for each site and the categories of each site according to Ministry for the Environment guidelines. Such a register will be updated and accessible to territorial authorities to assist in their land management functions."*

HZC POLICY 4 is implemented through the use of a Register of Selected Land Uses (RSLU list). The RPS confirms that the Taranaki Regional Council has investigated and compiled this database. These investigations confirm (to the extent of information known to the TRC) that there are now no contaminated sites which pose a risk to human health or the environment in the Taranaki region

HNZ METH 1 requires the regional council to deliver provisions specifically relating to discharges of contaminants to the environment. The requirements under HZC METH 1 and section 30 of the RMA outline the regional council's responsibilities relating to discharges of contaminants to the environment, whereas a district council is only required to ensure "*the prevention or mitigation of any adverse effects of the development, subdivision or use of contaminated land*" under section 31 of the RMA.

Therefore, the Proposed District Plan shall relate only to the subdivision, use and development on contaminated land to ensure that risks to human health are avoided, remedied or mitigated.

Other matters concerning the discharge of contaminants to land (that could enter ecosystems or waterbodies) are the responsibility of the Regional Council and are dealt with under the Regional Fresh Water Plan 2001.

### **3.5 Iwi Environmental Management Plans**

For the purposes of the District Plan Review, Iwi Environmental Management Plans must be taken into account under section 74(2A) of the RMA. The following iwi management plans are relevant:

#### **3.5.1 Taiao, Taiora: An Iwi Environmental Management Plan for the Taranaki Rohe (2018) (lodged with Council) which includes:**

- An issue statement noting that contamination of whenua is occurring due to industrial operations, household discharges, solid waste plants, fertilisers and soil disposal.
- Contamination of soil poses a threat to the health of Taranaki Iwi and local community, to soil structure, productivity, and sustainability, and to the natural balance of endemic land-based ecosystems.

As noted above, the discharge of contaminants to land are the responsibility of the Taranaki Regional Council. The District Council is responsible for the managing the effects of subdivision, use and development on contaminated land.

#### **3.5.2 Tai Whenua, Tai Tangata, Tai Ao, Te Atiawa Iwi Environmental Management Plan (2019) (in draft, not yet lodged with Council) which:**

- Identifies lack of involvement in decision-making regarding contaminated land as an issue (Issue TTAN10).
- Objectives to ensure that use and development of land is done in a manner where levels of contamination remain below guideline levels.
- Policies to achieve the objectives include requiring that landowners identify and appropriately manage the following issues:
  - Nature of contamination;
  - Level of contamination/environmental risk;

- Where the contaminated land originated (if moved);
- Potential leaching and run-off;
- Proposed land changes;
- Remediation of land to a clean condition if soil testing results show that contamination is over guideline levels; and
- Cost of remediation remains with original owner of the contamination.
- A policy to require involvement of tangata whenua in decision making relating to the establishment of any new landfills, contaminated land facilities and storage facilities.

The establishment of new hazardous facilities is covered by the Hazardous Substances topic, whereas the Contaminated Land topic is focussed on managing the effects of subdivision, use and development on land that is contaminated.

### 3.5.3 The Maniapoto Iwi Environmental Management Plan (Ko Tā Maniapoto Mahere Taiao) (2016) (under revision, not yet lodged with Council), which includes:

- A policy that contaminated land is managed effectively and, where possible and practicable, contamination is mitigated and the land is restored, with associated actions to:
  - Identify the location of historical and contemporary contaminated sites and manage appropriately to avoid any adverse effects on Maniapoto values.
  - Record and make accessible information about the location and nature of contaminated sites.
  - Ensure clean-up of contaminated sites and, where possible, those responsible for the contamination of sites are held accountable.
  - Future land use effectively avoids contaminating land.

### 3.5.4 Ngāti Mutunga Iwi Environmental Management Plan (2014 update) (under revision, not yet lodged with Council), which includes direction relating to discharge of contaminants to land or water which is primarily a regional council function.

The direction in these Iwi Management Plans, in relation to earthworks, has been taken into account in the evaluation below.

## 3.6 Other Legislation, Guidance and Policy Documents

### 3.6.1 New Plymouth District Strategic Framework

Tapuae Roa—Make Way for Taranaki: *Taranaki Regional Economic Development Strategy*, August 2017 (Tapuae Roa) is a culmination of work undertaken by the district councils and regional council of Taranaki in partnership with Ngā Iwi o Taranaki. It is designed to feed into the Long-Term Plans of all the councils in the region, and influence public and private sector investment decision-making on future activities.

### 3.6.2 The New Plymouth District Blueprint

First adopted in June 2015, the Blueprint is a 30-year spatial plan that provides eight key directions for Council. The New Plymouth District Blueprint does not specifically reference contaminated land matters, but the community vision seeks to “strengthen and connect local communities” through actions that foster the environment, community and economy.

### 3.6.3 Other legislation, guidance and regulations

Other legislation, guidance and regulations that are relevant to contaminated land, which have been considered in preparing the proposed plan, are:

- Building Act 2004
- Hazardous Substances and New Organisms Act 1996 (HSNO)
- Minister for the Environment Contaminated Land Management Guidelines
- Fire Service Act 1975
- Health Act 1956
- Health and Safety in Employment Act 1992
- Agricultural Compounds and Veterinary Medicines Act 1997
- Land Transport Act 1998
- Guidelines for Earthworks in the Taranaki Region (October 2006)

## 4 Context, Research and Trends

### 4.1 Operative District Plan Approach

#### 4.1.1 Context

The Operative New Plymouth District Plan (Operative District Plan) recognises the importance of protecting the health and safety of people from the risks associated with the use, subdivision or development of contaminated sites.

#### 4.1.2 Plan Changes

Plan Changes relating to contaminated land matters have not been prepared or incorporated within the Operative District Plan.

#### 4.1.3 Operative District Plan Provisions

Issue 10 of the Operative District Plan is:

*Adverse effects from the storage, use, disposal and transportation of hazardous substances on the environment.*

The Operative District Plan seeks to achieve Objective 10, which is as follows:

*To protect the quality of the environment, including the health and safety of people, from the adverse effects of the storage, use and disposal and transportation of hazardous substances.*

The Operative District Plan protects the health and safety of people from risks associated with contaminated land as set out in Policy 10.3:

*Contaminated sites should not be used for activities where human health and safety could be adversely affected by that contamination.*

Policy 10.3 is expected to be put in place through the implementation of the following methods:

*(a) Record site-specific information in the council's property information base from information supplied by Taranaki Regional Council from its database of contaminated sites.*

- (b) *Establish a protocol with Taranaki Regional Council for the ongoing provision of information about contaminated sites for the purpose of maintaining and updating the council's property information base.*
- (c) *Use project information memorandum (PIMs) and land information memoranda (LIMs) to provide information about contaminated sites.*
- (d) *Promote, in conjunction with landowners, Taranaki Regional Council, Medical Officer of Health, Ministry for the Environment and industry, remediation and making safe of known contaminated sites.*
- (e) *Promote awareness of the availability of site-specific information about contaminated sites in the district to landowners, developers and sub-dividers, and their advisers and agents.*
- (f) *Support, as appropriate, applications for funding from the Ministry for the Environment for the remediation of contaminated sites.*

Also, the assessment criteria within each Environment Area under the Operative District Plan require that where a site is contaminated, an application for a proposed subdivision shall detail the extent of the contamination, the proposed use of the site and any proposed mitigation measures.

No further provisions relating to Contaminated Land are included in the Operative District Plan. Furthermore, the Operative District Plan does not reference the NESCS.

## **4.2 Other Methods**

As mentioned in Section 3.2 above, the District Council administers the NESCS that regulates proposed subdivision, use and development on potentially contaminated or contaminated land.

## **4.3 State of the Environment**

Contaminated land is where past use of chemicals (hazardous substances) in industry, agriculture and other industries has left a legacy of soil contamination. If affected properties are not identified, assessed and as necessary, contained or cleaned up, contaminants in soil can pose a risk to human health and the environment. Recent research undertaken by the Ministry for the Environment concluded a common problem is that many city and district councils do not adequately address this matter at the critical stage, that is, when land potentially affected by contaminants in soil is developed or subdivided for residential use.

Historically, the Taranaki Regional Council has accepted principal responsibility for identifying and investigating contaminated sites. The role for the District Council has been to then ensure that any land, known to be contaminated, is not used or developed in a way that would pose risk to the community.

### **4.3.1 Resource Consent Trends/Data**

Because there are no specific rules relating to contaminated land in the Operative District Plan, no resource consents were obtained under the Operative District Plan rules before the NESCS came into effect. However the assessment matters enable the consideration of the effects of contaminated land. For example, the assessment matter for subdivision in the residential environment areas includes: "*Where an ALLOTMENT includes a CONTAMINATED SITE, the extent of contamination, proposed use of the ALLOTMENT and mitigation measures proposed*". Generally, when a subdivision

consent is applied for, and Council has reason to suspect that the land is contaminated, it requires the applicant to provide a contaminated land assessment with the subdivision or land use application based on the assessment criteria.

Between 2008 and 2018, New Plymouth District Council processed 14 resource consent applications the NESCS for a range of activities including new dwellings, domestic sheds and garages, land disturbance, communication facility, hazardous storage facilities, and the removal/replacement of fuel storage.

#### 4.4 Effectiveness of the Operative District Plan Approach

The Operative District Plan generally addresses the matter of contaminated land in its provisions. However, since the Plan has become operative the NESCS has been introduced and the Plan has not been updated to directly reference or respond to the NESCS. This is a key gap in the implementation of the District Plan.

Other gaps or areas for improvement raised through the implementation of the Operative Plan and consultation are listed in the table below.

Issue	Comment	Response
Issue 1: Out of date policy framework for contaminated land matters.	The existing policy framework is out of date and is lacking in policy direction on the management of contaminated land within the New Plymouth District.	Provide greater direction on managing: <ul style="list-style-type: none"> <li>• Use, development and subdivision of contaminated land.</li> <li>• Remediation works on contaminated land.</li> <li>• Present and future use of contaminated land.</li> </ul>
Issue 2: No clear distinction between the role of the District Council and Regional Council regarding contaminated land matters	Plan users will not clearly understand the specific roles and responsibilities required to be undertaken by the District Council and Regional Council.	Provide clarification of New Plymouth District Council's responsibilities under the RMA in relation to contaminated land, and how these relate to the regional council responsibilities (e.g. by way of advice notes).

#### 4.5 Effectiveness of Other Methods

The District Council administers the NESCS against each proposed subdivision, development or change in land use to ensure the appropriate management and remediation of contaminated sites within New Zealand and the New Plymouth District. Therefore, the NESCS adequately manages the use, development and subdivision of contaminated land within the district.

## **5 Consultation**

### **5.1 General Consultation**

Extensive consultation has been undertaken as part of this District Plan Review process with key stakeholders and the local community. Refer to the General Overview Section 32 Report for details on the methods that were used to carry out that consultation.

The first Draft District Plan was released for public comment in 2016, which contained draft provisions for each chapter and topic. Feedback, related to the Contaminated Land section, was received from interest groups only (such as Federated Farmers) and consisted of supporting and opposing views. A summary of the feedback from the community on the Contaminated Land Section of the Draft District Plan (2016) is set out below:

- Interest groups generally supported the Contaminated Land provisions, with some suggested amendments as follows:
  - The inclusion of an additional policy requiring the New Plymouth District Council and Taranaki Regional Council regularly share information regarding contaminated sites to avoid duplication and confusion.
  - Reference to the updated NESCS.
  - Ensure that the methodology used to identify contaminated sites does not incorrectly identify sites with generic land uses.
- Interest groups opposing the Contaminated Land provisions sought the following amendments:
  - Acknowledge activities related to oil, gas and petrochemical industries in the Contaminated Land section (e.g. well sites, mix-bury-cover sites, landfarms, sheep dips etc.).
  - Seek the inclusion of specific regulations in addition to the NESCS to appropriately manage and remedy contaminated sites.

These matters were considered during the evaluation of the contaminated land provisions and changes made to the provisions where relevant.

The second Draft District Plan was released for public comment in 2017, which contained the amended draft provisions for each chapter and topic. Feedback, related to the Contaminated Land section, was received from three interest groups. A summary of the feedback from the interest groups on the Contaminated Land Section of the Draft District Plan (2017) is set out below:

- Taranaki Regional Council: Supports the reference to the functions of the Taranaki Regional Council in managing the environmental effects from contaminated land.
- Royal Forest and Bird Protection Society NZ Inc: Sought an amendment to Objective C1-01 to identify any risk contaminated land poses to ecosystem health. Ecosystem health and the general management of contaminants and discharges is considered the responsibility of the Regional Council under section 30 of the RMA and the Taranaki Regional Policy Statement.
- Climate Justice Taranaki Inc: Climate Justice Tamaki Inc primarily sought not only the identification and remediation of contaminated sites, but greater planning and regulatory efforts to prevent contamination. As noted previously, this is a responsibility of the Regional Council under section 30 of the RMA and the Taranaki Regional Policy Statement and therefore should not be duplicated in the District Plan.

For the above reasons, no changes to the proposed District Plan were made in response to the feedback received on the Draft District Plan 2018.

## **5.2 Consultation with Iwi Authorities**

Ngā Kaitiaki provided feedback on the Draft District Plan Contaminated Land section. Ngā Kaitiaki understands that contaminated land is generally be managed under the NESCS and raised no concerns with the proposed plan continuing with this approach.

## **6 Key Resource Management Issues**

The key resource management issue for managing contaminated land is that:

- The subdivision, use, and development of contaminated land can lead to adverse effects on human health, when the necessary remediation or management measures have not been undertaken prior to use.

It is imperative that contaminated land in the New Plymouth District is managed appropriately to ensure that adverse effects on the health and wellbeing of people are avoided, remedied or mitigated.

In response to this issue, the contaminated land provisions have been revised, and further revisions made to address stakeholder feedback where appropriate. The evaluation is summarised below.

## **7 Proposed District Plan Provisions (Objectives, Policies and Methods/Rules)**

The proposed provisions are set out in the Contaminated Land Section of the Proposed New Plymouth District Plan. These provisions should be referred to in conjunction with this evaluation report. In summary, the proposed Contaminated Land section comprises the following:

- Objective CL-01: *The risks to human health from contaminated land are avoided, remedied or mitigated.*
- Policy CL-P1: *Identify sites that are known to contain contaminated soil as a result of land uses and activities, including current and historical land use and activities.*
- Policy CL-P2: *Ensure that contaminated land or potentially contaminated land is suitable for use by requiring investigation, remediation or management where necessary at the time of land use change, subdivision or re-development so as to minimise the risk to human health from the contamination.*
- Rules: *There are no rules in the District Plan. The National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health manages subdivision, use and development of potentially contaminated land.*

The proposed provisions ensure that there is no duplication of roles and responsibilities between the New Plymouth District Council and Taranaki Regional Council, whilst recognising the NESCS as the primary regulation responsible for the management and remediation of contaminated land.

## 8 Approach to Evaluation

Section 32(1)(a) of the RMA requires that this report contain a level of detail that corresponds with the scale and significance of the environmental, economic, social and cultural effects that are anticipated from the implementation of this proposal.

The section of the RMA requires that:

- New proposals must be examined for their appropriateness in achieving the purpose of the RMA.
- The benefits and costs, and risks of new policies and rules on the community, the economy and the environment need to be clearly identified and assessed;
- All advice received from iwi authorities and the response to the advice needs to be summarised; and
- The analysis must be documented, so stakeholders and decision makers can understand the rationale for policy choices.

### 8.1 Evaluation of Scale and Significance

	Minor	Low	Medium	High
Degree of change from the Operative Plan		✓		
Effects on matters of national importance		✓		
Scale of effects – geographically (local, district wide, regional, national).		✓		
Scale of effects on people (how many will be affected – single landowners, multiple landowners, neighbourhoods, the public generally, future generations?).		✓		
Scale of effects on those with specific interests, e.g., Tangata Whenua		✓		
Degree of policy risk – does it involve effects that have been considered implicitly or explicitly by higher order documents? Does it involve effects addressed by other standards/commonly accepted best practice?		✓		
Likelihood of increased costs or restrictions on individuals, communities or businesses.		✓		

### 8.2 Explanation Summary

In summary:

- The degree of change from the Operative District Plan is low, considering:
  - The Council is proposing a new objective and policy framework specific to Contaminated Land matters which is focussed on the effects on human health only.
  - The Contaminated Land chapter contains no rules but will continue reliance on the NESCS (which is similar to the Operative District Plan approach).

- The geographic scale of effects applies to those who are undertaking land use activities, development or subdivision within potentially contaminated land.
- The proposal does not relate to section 6 matters of national importance; however, the following section 7 other matters are relevant; (b) the efficient use and development of natural and physical resources, and (f) maintenance and enhancement of the quality of the environment.
- The proposal is not directly related to a strategic matter in the New Plymouth District Council Blueprint.
- The proposed Contaminated Land provisions are considered to be in accordance with the NESCS, which consistently regulates the land use, subdivision and development of contaminated land throughout New Zealand.
- The scale of effects on people and special interest groups is low. Regardless of the District Plan, the Council is required to enforce NESCS and land use, development or subdivision on potentially contaminated land is already required to comply with the NESCS.

Overall, it is considered that the scale and significance of the proposal is low. The level of detail in this report corresponds with the scale and significance of the environmental, economic and cultural effects that are anticipated from the implementation of the Contaminated Land provisions.

## 9 Evaluation of Objectives

Existing Objective(s)	Appropriateness to achieve the purpose of the Act
<p><i>Objective 10</i>  <i>To protect the quality of the environment, including the health and safety of people, from the adverse effects of the storage, use, disposal and transportation of hazardous substances.</i></p>	<p>This objective does not specifically address the management of contaminated land. The expectations for land use, development and subdivision on known or potentially contaminated sites within the district are not distinctly clear, and therefore the objective does not achieve the territorial authority's function outlined in section 31(b)(iia) of the RMA.</p> <p>Since the adoption of the Operative District Plan, the issue of managing contaminants in soil as resource management matter has been given greater priority through the NESCS. Objective 10, and more generally the Operative District Plan, fails to give specific recognition or provide specific direction on the management of effects of contaminated land and, therefore, does not achieve the purpose of the RMA.</p>
Proposed Objective(s)	Appropriateness to achieve the purpose of the Act
<p><i>Objective CL-01</i>  <i>The risks to human health from contaminated land are avoided, remedied or mitigated.</i></p>	<p>The purpose of the RMA is to promote the sustainable management of natural and physical resources by managing the use, development and protection of physical resources in a way which enables people and communities to provide for their social, economic and cultural wellbeing. Under section 7(b) and (f) of the RMA, this includes the efficient use and development of natural and physical resources and the maintenance and enhancement of the quality of the environment.</p> <p>The proposed objective recognises the need to manage contaminants in soil as a resource management matter as sought under the NESCS. Furthermore, the proposed objective acknowledges the District Council's responsibility to protect the health and wellbeing of people from the inappropriate land use, development and subdivision of contaminated sites under section 31(b)(iia) of the RMA.</p> <p>Objective CL-01 specifically and clearly sets out the outcome anticipated by the District Plan in relation to contaminated land and addresses the resource management issue identified above, in particular protecting the health of people and communities when proposing land use activities, development and subdivision within contaminated land. Also,</p>

Proposed Objective(s)	Appropriateness to achieve the purpose of the Act
	<p>while human health is highlighted, this is balanced against the position that the ability to appropriately use contaminated land is anticipated and provided for in the District Plan.</p> <p>Objective CL-01 makes it clear that the risks to human health is a District Council responsibility and does not confuse or duplicate the responsibilities of Regional Council regarding contaminated land matters.</p> <p>The objective will sustain the potential of natural and physical resources for current and future generations, while maintaining and enhancing amenity values and quality of the environment. Therefore. the objective will achieve the purpose of the RMA</p>

Evaluation of Alternative Options	Appropriateness to achieve the purpose of the Act
Do not define expectations for contaminated land	This option would hinder decision makers when assessing resource consent applications as they would have little guidance on what outcomes are expected. It would not achieve the purpose of the Act.

<b>Summary</b>
<p>The proposed objective will achieve the purpose of the Act as it is a clear statement of intent that defines the expectations for the land use, development and subdivision of contaminated land and is in accordance with the NESCS. The objective provides certainty as to the outcomes that are considered to be appropriate under the District Plan provisions.</p>

## 10 Evaluation of Options to Achieve the Objectives

Options to achieve the District Plan objectives relating to contaminated land	Benefits	Costs	Efficiency and Effectiveness	Risks of acting/not acting
<p><b>Option A: Proposed approach</b></p> <ul style="list-style-type: none"> <li>• Specific chapter for Contaminated Land in District Plan</li> <li>• Objectives and policy framework specific to management of contaminated land.</li> <li>• No District Plan rules. Cross-reference to the NESCS to enable consistent assessment of proposed land use, development and subdivision within contaminated land throughout New Zealand.</li> </ul>	<ul style="list-style-type: none"> <li>• Reduces risk to human health and safety.</li> <li>• Allows for improved coordination between the District Plan, NESCS regulations and Regional Council responsibilities (reduced duplication / inconsistency)</li> <li>• Provides a greater level of policy direction for addressing contaminated land.</li> <li>• Requires communication and knowledge-sharing between the New Plymouth District Council and Taranaki Regional Council.</li> </ul>	<ul style="list-style-type: none"> <li>• Costs for applicants to prepare satisfactory resource consent applications under the NESCS (noting that this is already a requirement so will not be an additional cost to the status quo)</li> <li>• Costs associated with remediation, use, redevelopment and subdivision of potentially contaminated land, and associated monitoring.</li> </ul>	<p>This approach effectively addresses the key management issue and aligns the provisions with the purpose and expectations of the NESCS and the RMA.</p> <p>With this approach the council will continue to enforce the NESCS and requiring the remediation of known contaminated land sites.</p> <p>Integrating the contaminated land matters into a specific section of the District Plan and relying on the NESCS is an efficient and effective way to manage the adverse effects of contaminated land.</p>	<p>Overall, it is considered that there is sufficient information to act, and that risks of not acting are outweighed by the benefits of acting.</p>
<p><b>Option B: Status quo regulatory approach</b></p> <ul style="list-style-type: none"> <li>• Retain current general objective and policy</li> </ul>	<ul style="list-style-type: none"> <li>• Plan users and landowners are familiar with current provisions.</li> </ul>	<ul style="list-style-type: none"> <li>• Misinformation and lack of policy direction, or cross-reference to NESCS can lead to lack of understanding of the</li> </ul>	<p>Maintaining the status quo would not be an effective approach, as the objective and policy</p>	<p>The current policy framework lacks detail and specific direction in regards to</p>

<b>Options to achieve the District Plan objectives relating to contaminated land</b>	<b>Benefits</b>	<b>Costs</b>	<b>Efficiency and Effectiveness</b>	<b>Risks of acting/not acting</b>
<p>framework (related to 'hazardous substances') within the "Management Strategy" section of the District Plan</p> <ul style="list-style-type: none"> <li>• Rely on assessment criteria to manage subdivision on contaminated land</li> <li>• Implement the NESCS separate to the District Plan</li> </ul>		<p>requirements for contaminated land and inappropriately developing contaminated sites for efficient land use, development and subdivision activities.</p> <ul style="list-style-type: none"> <li>• Proposed land use, development or subdivision may not be in accordance with the national regulation, best practice or effective remediation or management of contaminated sites.</li> <li>• Does not specifically address the District Council's responsibility to manage the use, development and subdivision of contaminated land, whilst recognising and providing for the ongoing and future use of contaminated land.</li> <li>• The provisions do not make it distinctly clear that the District Council is not responsible for the Regional Council function of managing the discharge of contaminants to the environment.</li> </ul>	<p>framework are outdated, and focussed on hazardous substances rather than managing the effects of contaminated land. The current approach is not aligned with the NESCS, and does not effectively or efficiently achieve the territorial authority's responsibility under section 31(b)(iia) of the RMA.</p>	<p>contaminated land matters of the NESCS and the RMA.</p> <p>The ineffectiveness of the current planning framework is demonstrated in section 4.4 of this report, and is not considered up-to-date with national expectations under the NESCS.</p> <p>It is considered that the risk of acting on these provisions outweighs the risk of not acting. There is sufficient information not to act on this approach.</p>
<p><b>Option C: Methods outside the District Plan</b></p> <ul style="list-style-type: none"> <li>• Rely on non-regulatory methods, such as</li> </ul>	<ul style="list-style-type: none"> <li>• Public awareness of the importance of identifying and managing contaminated land is</li> </ul>	<ul style="list-style-type: none"> <li>• Onus is on private landowners to identify whether their site is contaminated and remediate or</li> </ul>	<p>No policy framework on regulatory approach for contaminated land matters would not</p>	<p>The risk of a non-regulatory approach is that Council may not be carrying out its</p>

<b>Options to achieve the District Plan objectives relating to contaminated land</b>	<b>Benefits</b>	<b>Costs</b>	<b>Efficiency and Effectiveness</b>	<b>Risks of acting/not acting</b>
<p>education and information to identify and manage contaminated land (e.g. information on LIM/PIM for landowners).</p>	<p>increased through education programmes.</p> <ul style="list-style-type: none"> <li>Enables efficient use and development of natural and physical resources (e.g. efficient use of land).</li> </ul>	<p>manage effects on human health.</p> <ul style="list-style-type: none"> <li>Additional cost for council in providing technical advice, support and information.</li> <li>High likelihood of adverse effects on human health.</li> </ul>	<p>achieve the purpose of the RMA. No mention of contaminated land in the District Plan and a non-regulatory approach would be ineffective in avoiding or mitigating the environmental effects on the health and wellbeing of individuals within the New Plymouth District.</p>	<p>duty/requirements under the RMA. This approach may result in adverse effects on the safety of people. This would enable the efficient use of land but could result in adverse effects on human health.</p> <p>There is sufficient information not to act on this approach.</p>
<p><b>Quantification</b></p> <p>Section 32(2)(b) requires that if practicable the benefits and costs of a proposal are quantified.</p> <p>Given the assessment of the scale and significance of the proposed changes above it is considered that quantifying costs and benefits would add significant time and cost to the s32 evaluation processes. The evaluation in this report identifies where there may be additional costs(s), however the exact quantification of the benefits and costs discussed was not considered necessary, beneficial or practicable.</p>				
<p><b>Summary</b></p> <p>The above table has demonstrated that a combination of Option A and Option C is the most appropriate method to avoid, remedy or mitigate the risks to human health from contaminated land in the District.</p> <p>The status quo regulatory approach (Option B) would not effectively achieve the objective as the District Plan does not acknowledge the NESCS and does not clearly articulate the District Council’s responsibility to minimise the risk to human health from contaminated land matters under the RMA.</p> <p>Therefore, a revised approach as set out in Option A and C and Section 7 is proposed, which includes the proposed provisions, reliance on the NESCS regulations in conjunction with non-regulatory methods of promotion, identification of contaminated land information on PIMS/LIMS and the provision of technical information and advice to the community relating the management and remediation of contaminated land in relation to the use, development and subdivision of such land.</p>				

## **11 Summary**

This evaluation has been undertaken in accordance with Section 32 of the Act in order to identify the need, benefits and costs and the appropriateness of the proposal having regard to its effectiveness and efficiency relative to other means in achieving the purpose of the RMA. The evaluation demonstrates that this proposal is the most appropriate option as:

- The objective and policies provide clear direction on the management of risks to human health from contaminated land, acknowledging the role of the District Plan in managing contaminated land matters.
- The revised provisions provide more direct wording and clear commentary on the objectives and policies, particularly with reference to the NESCS.
- Reliance on the NESCS as the regulatory approach for managing subdivision, use and development of contaminated or potentially contaminated land is aligned with, and reduces inconsistency or duplication of current legislation and other regulatory requirements.
- Non-regulatory methods such as information provision, technical advice and the identification of contaminated land information on PIMS/LIMS will be used in conjunction with the proposed provisions to address the key management issue.

Overall, it is considered that the set of proposed provisions is the most appropriate given that the benefits outweigh the costs, and there are considerable efficiencies to be gained from adopting the preferred provisions. The risks of acting are also clearly identifiable and limited in their extent.