

# Te Tai o Poutini Plan – Section 32 Evaluation

## Report Three – Hazards and Risks Ngā Pūmate me ngā Mōrea

### Part Two

#### Hazardous Substances – Ngā Matū Mōrearea Contaminated Land – Ngā Whenua Tāhawahawa



**Te Tai o Poutini**  
PLAN

*A combined district plan for the West Coast*

# Executive Summary

The analysis set out in this report is to fulfil the obligations of the Council under Section 32 of the Resource Management Act (RMA). This s32 evaluation report relates to the Hazards and Risks Section. This is made up of Hazardous Substances, Contaminated Land and Natural Hazards.

## Part Two: Hazardous Substances and Contaminated Land

Hazardous substances are primarily controlled by the Hazardous Substances and New Organisms Act 1996 (HSNO Act). The HSNO Act provides the general framework for controlling hazardous substances during their entire life-cycle. Requirements apply from manufacturing or importing a substance, through its use, and to disposal.

The subdivision, development and use of contaminated or potentially contaminated land is governed by the requirements of the Resource Management (National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health) Regulations 2011 (NESCS). The District Plan must recognise and give effect to the NES through its objectives and policies.

In relation to hazardous substances and contaminated land, Te Tai o Poutini Plan (TTPP) seeks only to control matters that are not covered by other more specific legislation/regulation or the functions of the West Coast Regional Council. It does not seek to duplicate the provisions of existing legislation or HSNO approvals.

This report evaluates the resource management issues, including a review of the operative Buller, Grey and Westland District Plan provisions and evaluation of alternatives.

The key changes from the operative District Plans are:

- Introduction of a Hazardous Substances chapter, including objectives and policies that recognise the benefits of use and development of hazardous substances, while ensuring unacceptable risks are avoided and residual risks are minimised.
- New objectives and policies to ensure the appropriate location of hazardous substances, address the issue of incompatibility and reverse sensitivity effects on existing significant facilities and avoid duplication with other statutory processes.
- A standalone chapter and specific objective and policy framework for contaminated land.
- Reference to the NESCS for managing the risk of the subdivision, use and development of contaminated land within the district.

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# 6.0 Overview and Purpose

This s32 evaluation report should be read in conjunction with the s32 'Overview Report', which also includes an overview of the s32 legislative requirements, the methodology and approach to the s32 evaluations and the process that the TTPP Committee has undertaken to date through the development of Te Tai o Poutini Plan, including consultation and engagement.

This report sets out the statutory and policy context for hazardous substances and contaminated land areas, the key resource management issues, specific consultation and approach to evaluation on 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 (RMA) in relation to the hazardous substances and contaminated land topic.

## 6.1 Introduction to the Resource Management Issue

The report sets out the statutory and policy context for Contaminated Land and Hazardous Substances, 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 and Hazardous Substances 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 and hazardous substances which is the District Council's responsibility under Section 31 of the RMA.

### *Contaminated Land*

The health and wellbeing of people and the environment is prioritised within the West Coast. 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.

## 6.2 Regulatory and Policy Direction

### 6.2.1 Part 2 of the RMA

In carrying out a s32 analysis, an evaluation is required of how the proposal achieves the purpose and principles contained in Part 2 of the RMA.

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 5 of the RMA requires the Council to enable people and communities to provide for their social, economic, and cultural well-being and for their health and safety.

Section 6 of the RMA requires that a district council recognise and provide for matters of national importance.

Those relevant to these chapters are:

*(a) the preservation of the natural character of the coastal environment (including the coastal marine area), wetlands, and lakes and rivers and their margins, and the protection of them from inappropriate subdivision, use, and development;*

*(e) the relationship of Maori and their culture and traditions with their ancestral lands, water, sites, waahi tapu and other taonga;*

*(h) the management of significant risks from natural hazards.*

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

- (a) kaitiakitanga;
- (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 Council to take into account the principles of the Treaty of Waitangi (Te Tiriti o Waitangi). Poutini Ngāi Tahu, through hapū rūnanga, have been consulted as part of the TTPP development process. This feedback has informed the section 32 evaluation, and the obligation to make informed decisions based on that consultation is noted.

Sections 30 and 31 of the RMA were amended in 2017 by the Resource Legislation Amendment Act (RLAA) to remove the control of hazardous substances as an explicit function of councils, resulting in them no longer being obliged to manage hazardous substances in RMA policy statements or plans. However, councils still have a broad function of achieving integrated management, and can use this function to impose additional controls on hazardous substances under the RMA if existing HSNO or HSW Act controls inadequately address the environmental effects of hazardous substances.

### 6.2.2 National Instruments

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

The NESCS applies to certain activities undertaken on 'pieces of land' on which any potentially contaminating activity on the Ministry for the Environment's Hazardous Activities and Industries List (the HAIL) is occurring, has occurred, or is more likely than not to have occurred.

The NESCS provides a nationally consistent set of planning controls for contaminated land. It ensures that contaminated land is identified, assessed, and (if necessary) made safe for human activity, although it does not address environmental effects of contaminated land. The NESCS also does not contain objectives or policies to guide decisions made under its rules. All territorial authorities are required to observe and enforce the requirements of the NESCS.

### 6.2.3 National Planning Standards and/or Guidance Documents

#### *National Planning Standards*

The Ministry for the Environment National Planning Standards (April 2019) contain the following aspects of relevance to this topic:

Section 7. District-wide Matters Standard – This specifies that if the following matters are addressed in the plan they must be under the *Hazards and risks* heading:

- If provisions to manage contaminated land are addressed, they must be located in the *Contaminated land* chapter.
- If provisions relating to hazardous substances are addressed, they must be located in a chapter titled *Hazardous substances* under the *Hazards and risks* heading.

Section 14. Definitions Standard – This standard specifies mandatory definitions to improve plan consistency across the country.

### 6.2.4 Regional Policy and Plans

The West Coast Regional Policy Statement is largely silent on the subject of Hazardous Substances and Contaminated Land with the general provisions for the management of land and water providing the main guidance. The most relevant Objectives and Policies focus on managing the impact of contaminants on waterbodies.

The Land and Water Regional Plan regulates discharges of stormwater from sites where hazardous substances are stored and used – this is a Controlled Activity.

The Land and Water Regional Plan also contains Objectives, Policies and Rules around sites associated with Hazardous Substances and Contaminated Land. This focuses on managing the environmental effects of activities on this land, including remediation of contaminated land.

The WCRC has adopted a non-statutory HAIL Site Strategy. This sets out the approach for identification of HAIL Sites and the process of managing information about the sites, assessment of investigation reports and key requirements for the content of reports.

In most cases the responsibility for the management of effects on the environment arising from hazardous substances and contaminated land will sit with the WCRC (e.g. leaching of contaminants to waterbodies or groundwater from land development or disturbance activities) through administration of the Land and Water Regional Plan, however the District Councils are responsible for the administration of the NESCS.

### 6.2.5 Poutini Ngāi Tahu Iwi Management Plans

The RMA requires that when preparing a District Plan, the territorial authority must take into account any relevant planning document recognised by an iwi authority and lodged with the territorial authority, to the extent that its content has a bearing on the resource management issues of the district (section 74(2A)). There are three iwi management plans on the West Coast – the Te Rūnanga o Makaawhio Pounamu Management Plan, the Ngāti Waewae Pounamu Management Plan and the Lake Māhinapua Management Plan.

While these documents focus on specific issues they also contain wider information about the overall approach to sustainability and kaitiakitanga of resources and Poutini Ngāi Tahu values.

### 6.2.6 Other Relevant Legislation or Regulations

#### *Hazardous Substances and New Organisms Act 1996*

The HSNO Act governs the management of hazardous substances. In particular, it provides the general framework for controlling hazardous substances during their entire life cycle and requirements apply from manufacturing or importing a substance, through to its use and disposal.

Although the Environmental Protection Authority (EPA) administers the HSNO Act there are a number of agencies responsible for its enforcement.

#### *Health and Safety at Work Act (Hazardous Substances) Regulations*

On 1 December 2017 the rules around managing hazardous substances in the workplace transferred from the Hazardous Substances and New Organisms Act (HSNO) to the Health and Safety at Work (Hazardous Substances) Regulations. Worksafe New Zealand enforces the rules relating to the use, handling and storage of hazardous substances in the workplace under the Health and Safety at Work Act. It also:

- Implements the rules by providing guidance, managing the compliance certification regime, and developing more detailed and technical rules for some hazardous substances.
- Enforces the ecotoxic and disposal requirements in the workplace, which are set under the Hazardous Substances and New Organisms Act (HSNO).
- Provides information and tools to help businesses understand their obligations

#### *Ministry for the Environment Guidance Note: Managing Hazardous Substances under the Resource Management Act.*

The Guidance Note explains the intention of the changes to the RMA, and states that the changes are not intended to prevent, discourage or oblige councils from keeping or putting in place controls in relation to hazardous substances, but reiterates that councils should ensure that they do not duplicate the requirements under the HSNO Act and HSWA when the provisions in their policy statements and plans are next reviewed.

The HSNO Act and HSWA controls set rules for the use, storage, handling and disposal of hazardous substances depending on a substance classification. The Guidance Note indicates that hazardous substance related District Plan controls are unnecessary in relation to the following matters: signage, tank standards, and the disposal and waste management of hazardous substances. However, these rules generally do not cover the combination of issues involved around land use at a local level. For example, HSNO and HSWA generally do not consider issues such as local infrastructure, zoning, sensitive ecological areas, reverse sensitivity, whether the volume of substances being stored is suitable for the surrounding environment or if there are any cumulative effects. Any controls on

hazardous substances also need to be justified by a section 32 evaluation showing why a higher degree of environmental protection is necessary in the local context.

The Guidance Note indicates that it may be appropriate for District Councils to control hazardous substances in their plans where this involves:

- New, particularly sensitive areas or land uses (e.g. wetlands, open rivers and streams).
- Areas prone to natural hazards (e.g. flood prone areas, areas susceptible to liquefaction, close to active fault lines, or areas susceptible to coastal storm surges).
- Major hazardous facilities (in particular considering potential cumulative effects on adjacent land uses).
- Reverse sensitivity (where more sensitive receiving activities such as residential activities are allowed to locate in proximity to existing hazardous facilities).

Further, it states that any additional rules imposed to address location specific issues should be written in a way that is user friendly and enables easy interpretation by different members of the community – they should also avoid creating unnecessary confusion with existing provisions under HSNO and HSWA.

## 7.0 Resource Management Issue and Analysis

### 7.1 Background

#### *Hazardous Substances*

Hazardous substances are necessary tools for many agricultural, industrial and some domestic activities. Hazardous substances of various kinds are in widespread use on the West Coast and are an essential part of everyday life. By their nature, hazardous substances carry an inherent risk of adverse effects, should an accident occur.

#### *Contaminated Land*

Contaminated land is land that has a hazardous substance in or on it that could have an adverse effect on human health or the environment.

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 and the disposal of wastes in landfills.

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

### 7.2 Evidence Base – Research, Consultation, Information and Analysis

#### 7.2.1 Research

The Council has reviewed the current District Plan, commissioned technical advice, obtained assistance from various internal and external experts and utilised this, along with internal workshops and community feedback to assist with setting the plan framework. This work has been used to inform the identification and assessment of the environmental, economic, social and cultural effects that are anticipated from the implementation of the provisions. This advice includes the following:

<b>Title</b>	<b>Te Tai o Poutini Plan Technical Update: Hazardous Substances and Contaminated Land. Report to Te Tai o Poutini Plan Committee March 2021</b>
<b>Author</b>	Lois Easton

<b>Brief Synopsis</b>	Outlines the resource management matters and issues in relation to hazardous substances and contaminated land. Proposes draft Objectives and Policies for the Committee to consider.
<b>Link to Document</b>	<a href="https://tppp.nz/wp-content/uploads/2021/04/TTPP-Agenda-30-March-2021.pdf">https://tppp.nz/wp-content/uploads/2021/04/TTPP-Agenda-30-March-2021.pdf</a>

## 7.2.2 Consultation and Engagement

Te Tai o Poutini Plan has been the subject of significant consultation and community engagement. Within that, the issues around urban areas and settlements have been the subject of targeted consultation alongside the overall TTPP consultation and engagement process.

This commenced in 2019 with the identification of development stakeholders on the West Coast – local surveyors and planning firms, infrastructure providers, Development West Coast, Māwhera Incorporation, Regional Public Health and local businesses.

Numerous one on one meetings were held with individual stakeholders during the Plan drafting, with multi-stakeholder workshops also held.

The draft TTPP was released for public feedback in January 2022 and there was some feedback provided on the Hazardous Substances and Contaminated Land Chapters. These chapters were amended following feedback as outlined in a report to the Committee on 29<sup>th</sup> March 2022.

<b>Title</b>	<b>Te Tai o Poutini Plan: Technical Report Feedback on the Draft Plan: Report to Te Tai o Poutini Plan Committee 29 March 2022</b>
<b>Author</b>	Lois Easton
<b>Brief Synopsis</b>	This report brings the feedback on the draft Plan and recommends amendments to the Plan in response to that feedback.
<b>Link to Document</b>	<a href="https://tppp.nz/wp-content/uploads/2022/03/TTPP-Agenda-29-March-2022.pdf">https://tppp.nz/wp-content/uploads/2022/03/TTPP-Agenda-29-March-2022.pdf</a>

### *Schedule 1 Pre-notification Consultation*

The RMA requires councils to undertake pre-notification consultation with those parties identified in Schedule 1, clause 3, during the preparation of a proposed district plan. These parties include:

- the Minister for the Environment;
- those other Ministers of the Crown who may be affected by the proposed plan;
- local authorities who may be so affected; and
- the tangata whenua of the area who may be so affected, through iwi authorities.

As a result of this consultation, written feedback was received from Department of Conservation, Department of Internal Affairs, Te Rūnanga o Ngāi Tahu and the Ministry for the Environment.

No specific feedback was provided on the hazardous substances and contaminated land topic.

## 7.3 Operative District Plan Provisions

### 7.3.1 Buller District Plan

#### *Objectives and Policies*

The Buller District Plan contains no provisions in relation to Contaminated Land.

As regards hazardous substances there is one objective and three policies as follow:

*Objective 4.11.5.1. To encourage and promote the safe and efficient handling and disposal of hazardous substances throughout the District.*

*Policy 4.11.6.1. Compliance with approved codes of practice and national guidelines and standards shall be required for all activities involving the use, storage and transport of hazardous substances.*



*Policy 4.11.6.2. Appropriate contingency planning shall be required for all operators of hazardous facilities, including disposal sites.*

*Policy 4.11.6.3. Assistance with and support in the establishment of a regional hazardous waste disposal site.*

### *Rules*

Part 6.3 of the Buller Plan contains the rules for hazardous substances.

Controlled Activities are:

Where:

6.3.1.1 The hazardous substances to be stored in underground tanks comply with the "Code of Practice for Design, Installation and Operation of Underground Petroleum Storage Systems" (Department of Labour, OSH, 1992), OR where other methods are adopted such as current industry codes of practice, which will ensure that the standards 6.3.1.3 and 6.3.1.4 below are met.

6.3.1.2. All sites (or part thereof) where hazardous substances are stored, used, loaded or unloaded are sealed, bunded and roofed or covered. Such bunds are to be of impervious material and be capable of containing the total volume of material stored or used on the site (in the event of a spill).

6.3.1.3. Drainage from sealed areas is to an appropriate waste treatment system and there is no direct discharge of contaminated stormwater or waste to natural waters, land or air.

6.3.1.4. No hazardous substance is discharged into or onto water, land or air except where this is provided for within a regional plan, or other rule or regulation

6.3.1.5 A management plan for all sites where hazardous substances are stored, used or transported is prepared.

6.3.1.6. A spill response contingency plan is prepared.

Where the Controlled Activity Performance Standards are not met, the activity is a Discretionary Activity.

### *Buller Plan Change 133-145*

Plan Change 136 introduces new objectives and policies for Hazardous Substances and Contaminated Land as follow:

*Objective 1: To protect the environment from the adverse effects and risks arising from subdivision, land use and development activities involving hazardous substances.*

*Objective 2: To ensure that contaminated land is used, subdivided, developed or managed in a way that avoids, remedies or mitigates adverse effects on the environment and human health.*

*Policy 1: Activities and facilities involving the use and storage of hazardous substances shall be designed, located, constructed and operated so as to minimise risk to people and the environment.*

*Policy 2: To ensure that when contaminated land is used, subdivided and/or developed, the land is managed or remediated in a way that avoids or mitigates adverse effects on the environment and manages the risk to human health to a level that is appropriate for the intended use.*

### *7.3.2 Grey District Plan*

#### *Objectives and Policies*

The Grey District Plan contains no provisions for contaminated land.

There is one objective and two policies in relation to hazardous substances as follow:

- *Objective 11.3.1 To prevent or mitigate the actual and potential effects arising from the storage, use, disposal and transportation of hazardous substances.*

*Policy 11.4.1 Hazardous substances should be securely contained during their use, storage and transport so as to prevent escape.*

*Policy 11.4.2 Hazardous substances should be disposed of in an environmentally acceptable manner.*

#### *Rules*

Appendix Three of the Grey Plan has the hazardous substances rules.

The use, storage and manufacture of hazardous substances are a Permitted Activity with performance standards. Where performance standards are not met, this is a Discretionary Activity.

Schedule 1 contains a classification of hazardous substances, and Schedule 2 identifies the quantity whereby the use and storage of a Schedule 1 substance would trigger the Discretionary Activity consent.

### 7.3.3 Westland District Plan

#### *Objectives and Policies*

The Westland District Plan contains no provisions for contaminated land.

There is one policy that relates to hazardous substances as follows:

*Policy 4.4.D The safe handling, management and disposal of hazardous substances in a manner which protects community well-being, road safety, and soil and water resources shall be encouraged.*

#### *Rules*

Section 8.6 of the Westland Plan contains the rules for hazardous substances.

The following controls on the use, storage, production or mixing of hazardous substances shall only apply where those matters are not already dealt with through other existing legislative or regulatory mechanisms:

- a. All sites used for the storage of hazardous materials must be adequately roofed and sealed with impervious materials.
- b. No hazardous substance may be discharged into the stormwater system or otherwise enter the environment in a potentially damaging form.

Where these standards are not met, the activity would require a Non-complying Activity resource consent.

### 7.3.4 Analysis of combined operative district plan approaches

#### 7.3.5

## 7.4 Analysis of Best Practice – How Other Councils are Addressing the Same Issue

A review of current practice in respect of this matter has been undertaken, together with a review of the following District Plans:

- Timaru Draft District Plan
- Selwyn Proposed District Plan
- New Plymouth Proposed District Plan
- Porirua Proposed District Plan

These plans were chosen as they are second generation district plans, produced under the current hazardous substances and contaminated land legal framework.

In summary, the findings of the review were:

- Some but not all second generation district plans contain objectives and policies for contaminated land, none have rules
- Inclusion of objectives and policies for hazardous substances is normal with a focus on sensitive activities and residual risk.

- Some plans have rules where there are very major hazardous substances facilities in their districts (e.g. New Plymouth) but many district councils do not.

## 7.4 Summary of Issues Analysis

The analysis undertaken identifies that principally the provisions of the HSNO Act and the NESCL should be relied on for the management of hazardous substances and contaminated land. On this basis, the focus of TTPP provisions should be the setting of an objective and policy framework to support resource consents triggered under other provisions of the plan that relate to hazardous substances and contaminated land.

# 8.0 Scale and Significance Evaluation

The level of detail undertaken for the evaluation of the Proposed TTPP provisions has been determined by an assessment of the scale and significance of the implementation of these provisions. The scale and significance assessment considers the environmental, economic, social and cultural effects of the provisions.

	Minor	Low	Medium	High
Degree of change from the Operative Plans			x	
Effects on matters of national importance (s6 RMA)		x		
Scale of effects – geographically (local, district wide, regional, national)		x		
Scale of effects on people (how many will be affected – single landowners, multiple landowners, neighbourhoods, the public generally, future generations?)		x		
Scale of effects on those with particular interests, e.g. Tangata Whenua			x	
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?		x		
Likelihood of increased costs or restrictions on individuals, businesses or communities	x			

## 8.1 Explanation Summary

Both Hazardous Substances and Contaminated Land are provided for in higher order planning documents which Council is required to give effect to or consider in the District Plan, but their management is already substantially controlled through other legislation and regulations. The proposed Plan provisions largely reflect the direction of the regional plans and legislation and given this, the level of detail of analysis in this report is low.

# 9.0 Evaluation

## 9.1 Evaluation of Objectives

This section of the report evaluates the proposed objectives as to whether they are the most appropriate to achieve the purpose of the Act.

Objectives	Appropriateness to Achieve the Purpose of the Act
<p><b>Existing Objectives:</b></p> <p><i>Buller District Plan Change 136 Objectives:</i></p> <p><i>Objective 1: To protect the environment from the adverse effects and risks arising from subdivision, land use and development activities involving hazardous substances.</i></p> <p><i>Objective 2: To ensure that contaminated land is used, subdivided, developed or managed in a way that avoids, remedies or mitigates adverse effects on the environment and human health.</i></p> <hr/> <p><i>Grey District Plan Objective:</i></p> <p><i>Objective 11.3.1 To prevent or mitigate the actual and potential effects arising from the storage, use, disposal and transportation of hazardous substances.</i></p> <hr/> <p><i>Westland District Plan General Environmental Quality Objective:</i></p> <p><i>3.2.1 To establish levels of environmental quality for Westland which enable people and communities to provide for their social, economic and cultural well being, while meeting the principles of sustainable management of natural and physical resources</i></p>	<p>These objectives are not preferred as the most appropriate way to achieve the purpose of the Act because they:</p> <ul style="list-style-type: none"> <li>- Are unclear as to the jurisdiction of the district plan provisions in relation to the requirements of the HSNO Act</li> <li>- There would be a significant lost opportunity to improve the efficiency and effectiveness of management of hazardous substances and contaminated land on the West Coast if the existing provisions were rolled over.</li> <li>- Definitions are inconsistent with HSNO, which causes unnecessary complications. Does not clearly guide decision makers as to the role of the district councils in relation to managing effects.</li> <li>- Will result in costs for those resource users who have to maintain compliance with HSNO requirements and also seek resource consents from the district councils, particularly if those consents then have different requirements to those contained in HSNO.</li> <li>- Less effective in achieving outcomes within the scope of the councils' responsibilities.</li> </ul>
Evaluation of Alternative Option	Appropriateness to Achieve the Purpose of the Act
<p><b>Proposed TPPP Objectives</b></p> <p><i>Contaminated Land:</i></p> <p><i>CL – O1 To ensure that contaminated land is used, subdivided, developed or managed in a way that avoids or mitigates adverse effects on the environment and human health.</i></p> <p><i>Hazardous Substances:</i></p> <p><i>HS – O1 The benefits associated with the use of hazardous substances are recognised while ensuring that risks to the environment and human health arising from subdivision use and development</i></p>	<p>The objectives are considered the most appropriate way to achieve the purpose of the Act because they:</p> <ul style="list-style-type: none"> <li>- Recognise the residual risk to people and the environment that can arise from hazardous substances use and meet the legislative requirements to ensure that these risks are managed so that they do not adversely affect human health and the environment (RMA Section 5(2));</li> <li>- Manage the use and development of land that is contaminated so that people and communities' health and safety is maintained. The contaminated land objective at the same time allows for the use and</li> </ul>

*activities involving hazardous substances are minimised.*

development of land which enables people and communities to provide for their economic, social and cultural well-being (RMA Section 5(2));

- The contaminated land objective closely aligns with the steps for assessment of activities under the NESCS. Providing this objective also assists the Councils to process consent applications under the NESCS.
- Will not result in unjustifiably high costs on the community as seeks to provide a framework for considering consent applications, which is more efficient than an absence of provisions.
- By having regard to the benefits of activities which may use and store hazardous substances, enables people and communities to provide for their social and economic well-being (RMA Section 5(2));
- Will sustain the potential of resources to meet the needs of future generations and seeks to safeguard the life-supporting capacity of air, water, soil and ecosystems, by addressing the risk of hazardous substances on the environment (RMA Section 5(2)(a) and (b));
- Reflects recent amendments to RMA with respect to Council's responsibilities to control effects under the RMA that are not dealt with by controls already imposed by other legislation and/or higher level documents;
- Aligns with the Strategic Direction Objectives and does not duplicate these.
- Will not result in unjustifiably high costs on the community as seeks to remove duplication with other legislation.
- Seeks outcomes within the scope of the Committee's responsibilities and can be realistically achieved through regulations at a district level while relying on a best practice approach by other more specific and/or higher level regulations/legislation.

#### Summary

The proposed objectives have been selected because they are considered the most appropriate for achieving sustainable management in relation to hazardous substances and contaminated land. They address the identified resource management issues, give effect to the relevant statutory requirements, assist with achieving the Strategic Objectives and do not lead to unreasonable costs.

## 9.2 Evaluation of Policies and Methods in relation to Hazardous Substances and Contaminated Land

### 9.2.1 Description of the Proposed Provisions

#### *Hazardous Substances*

#### *Policies*

There are four policies in relation to hazardous substances as follow:

*HS – P1 Activities and facilities involving the use and storage of hazardous substances shall be designed, located, constructed and operated so as to minimise residual risk to people and the environment.*

*HS – P2 Ensure that new or expanded major hazard facilities are located away from natural, historic and cultural overlay areas and away from locations that are subject to significant natural hazards, where practicable, taking into account the operational and functional needs of activities to locate in these areas.*

*HS – P3 Provide for the establishment and expansion of major hazard facilities within the Industrial, Port and General Rural Zones, where adequate separation distances are maintained from sensitive activities and valued natural, cultural and historic heritage features.*

*HS – P4 Avoid locating sensitive activities adjacent to major hazard facilities unless it can be demonstrated that any reverse sensitivity effects and residual risks are avoided.*

#### *Rules*

While there are no rules in relation to hazardous substances in the hazardous substances chapter, rules can be found in other parts of the proposed TTPP.

- Rules in relation to location and management of hazardous substances area included within the Natural Hazards chapter as hazardous or explosive material storage is considered a critical response facility. Critical response facilities are regulated in a range of natural hazard overlays.
- Rule SASM - R17 relates to new hazardous facilities located within 50m of a Site or Area of Significance to Māori. These are a non-complying activity.
- Management of hazardous substances is a matter of discretion in the rules managing Mineral Extraction in the Zones Chapters
- Management of hazardous substances is a matter of discretion in the rules managing Industrial Activities in the Industrial Zones and Port Zone Chapters

### *Contaminated Land*

#### *Policies*

There are two policies in relation to contaminated land:

*CL – P1 At the time of subdivision, change of use or development, identify sites that may be subject to potential contamination as a result of historical land use and activities and investigate the risks to human health and the environment.*

*CL – P2 Ensure that when contaminated land is used, subdivided and/or developed, the land is managed or remediated in a way that avoids or mitigates adverse effects on the environment and manages the risk to human health to a level that is appropriate for the intended use*

#### *Rules*

There are no rules in relation to contaminated land in the contaminated land chapter. There is one rule within the Earthworks Chapter -

- Earthworks for test pits for contaminated land assessment are provided for as a Permitted Activity.

## 9.2.2 Evaluation of Policies, Methods

Option	Benefits	Costs	Efficiency and Effectiveness	Risk of acting/not acting
<p><b>Option A: Status quo</b></p> <p><b>This option is not recommended</b></p>	<p>Plan users and landowners are familiar with current provisions.</p>	<ul style="list-style-type: none"> <li>Creates unnecessary overlaps and inefficiencies between the HSNO Act and the TTPP, with existing plan provisions superseded by more recent legislative requirements governing hazardous substance management.</li> <li>Fails to capture improvements in best practice since the plans were made operative, including hazard management guidance prepared by MfE.</li> </ul>	<ul style="list-style-type: none"> <li>Maintaining the status quo would reduce effectiveness with rules currently based on outdated legislation and presented in a complex manner for plan-users.</li> <li>Overlap and ineffectiveness resulting from outdated provisions that are inconsistent with best-practice.</li> </ul>	<p>The key risk of acting on this approach is the District Plan would continue to duplicate other, more specific hazardous substance related legislation, resulting in an approach that would be contrary to the procedural principles in section 18A RMA and a less efficient and effective means of achieving its purpose relative to the proposal.</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 B: Proposed Plan</b></p> <p><b>This is the recommended option.</b></p>	<ul style="list-style-type: none"> <li>Reduces risk to human health and safety.</li> <li>Ensures alignment with best practice and up to date provisions with legislation changes (i.e. the provisions only have rules for hazardous substances where they complement and do not duplicate other hazardous substances legislation).</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</li> </ul>	<ul style="list-style-type: none"> <li>Through updating the provisions to be in line with current legislation it will minimise overlap and duplication with other legislation/regulation.</li> <li>The Proposed TTPP simplifies the hazardous substances provisions, thereby</li> </ul>	<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>

	<ul style="list-style-type: none"> <li>• Allows for improved coordination between TTPP, NESCS regulations and Regional Council responsibilities (reduced duplication / inconsistency)</li> <li>• Provides a greater level of policy direction for addressing contaminated land.</li> <li>• Enables continued contribution of existing hazardous facilities to the social and economic wellbeing of the community.</li> </ul>	<p>subdivision of potentially contaminated land, and associated monitoring.</p>	<p>improving the overall usability of the plan.</p> <ul style="list-style-type: none"> <li>• This approach effectively addresses the key management issue and aligns the provisions with the purpose and expectations of the NESCS and the RMA.</li> <li>• The introduction of stand-alone Hazardous Substances and Contaminated Land chapters aligns with the direction in the National Planning Standards.</li> <li>• With this approach the council will continue to enforce the NESCS and requiring the remediation of known contaminated land sites.</li> <li>• 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.</li> </ul>	
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<b>Quantification</b>				
Section 32(2)(b) requires that if practicable the benefits and costs of a proposal are quantified. The evaluation in this report identifies where there may be additional cost(s), however the exact quantification of the benefits and costs discussed was not considered necessary, beneficial or practicable.				
<b>Summary</b>				
The above table has demonstrated that Option B is the most appropriate method for managing hazardous substances and contaminated land within the proposed TTPP.				
Accordingly Option B is recommended and best meets the requirements of section 32 of the Resource Management Act as it represents the most appropriate means of achieving the hazardous substances and contaminated land objectives of Te Tai o Poutini Plan.				

## 10.0 Summary

This evaluation has been undertaken in accordance with Section 32 of the RMA 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 updated provisions are consistent with best practice in second generation plans throughout New Zealand and minimise unnecessary overlap with other, related legislation
- The topic-specific Hazardous Substance Chapter and the clear layout and simplification of provisions reduces the current complexities of the Operative District Plans which for some plan users is considered too technical and complex to understand – not only does this result in the Plan being compliant with the National Planning Standard but also ensures that it is more user-friendly
- The objectives and policies provide direction and certainty to Plan users on the outcomes expected in relation to hazardous substances and contaminated land. There is a focus on reinforcing the role and function of industrial land to ensure that zone integrity is maintained through development and adverse effects are appropriately managed.

Overall, it is considered that the set of preferred 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.