

**SECTION 32  
CONTAMINATED LAND CHAPTER 12**

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## **1. STRATEGIC CONTEXT**

### **1.1 PURPOSE AND SCOPE OF THE CONTAMINATED LAND CHAPTER**

- a. The purpose of the Contaminated Land part of the Hazardous Substances and Contaminated Land chapter is to:
  - i. provide a streamlined, focused and updated framework and process for the management and direction of Contaminated Land; and
  - ii. facilitate the observance of the Resource Management (National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health) Regulations 2011 (the NES).
- b. The Christchurch City Plan currently provides a suite of policies and rules in relation to contaminated land. In reviewing those provisions, a number of changes were identified that would assist with Canterbury's recovery. In particular there is a need to:
  - i. re-focus the objectives and policies so they specifically recognise and respond to recovery issues and identify opportunities to remove unnecessary regulatory controls on residential activities (i.e. reduce consent and notification requirements);
  - ii. update the provisions (some being nearly twenty years old) to reflect the direction of relevant statutory documents, in particular the Greater Christchurch Land Use Recovery Plan (LURP) and Canterbury Regional Policy Statement (CRPS); and
  - iii. streamline the contaminated land provisions as the current Christchurch City Plan is overly cumbersome, primarily as a result of a series of ad hoc private plan changes.
- c. The first phase of the review covers an overarching objective and policy framework for managing the prevention of adverse effects on public and environmental health from the development, subdivision or use of contaminated land, and facilitates the observance of the NES.
- d. Parts of the District Plans that have not been reviewed and are instead to be considered in Phase 2 include the following matters:
  - i. the management of contaminated land in respect of water supplies, productive soils and significant natural and cultural heritage sites; and
  - ii. hazardous substances.

### **1.2 PROPOSED DISTRICT PLAN: OVERVIEW AND SYNOPSIS**

- a. The Strategic Directions chapter of the District Plan Review (DPR) (section 3.4.4.5) identifies contamination on land, groundwater, waterways and biodiversity as an issue in respect of the health and safety of people and the environment. It recognises that land contamination presents risks for human health. It notes that information sharing between management agencies and manawhenua and the wider community can assist in managing these issues. Objective 3.6.6 – 1 sets out the need to protect people and the environment from the adverse effects of contaminated land.
- b. Contaminated land forms part of Chapter 12 Hazardous Substances and Contaminated Land. Phase 1 of the District Plan Review will address the overarching framework for contaminated land and enable observance of the NES. This will be addressed by an Objective and Policy together with Methods. Further details on environmental health matters are intended to be addressed in Phase 2 of the DPR, together with provisions regarding hazardous substances.

### 1.3 RESEARCH

The Council has considered technical advice and assistance from various internal and external experts and utilised this, along with internal workshops and community feedback, to assist with setting the District Plan framework for the proposed Contaminated Land Chapter provisions. This advice includes the following:

Title	Author	Description of Report
1. Hazardous Activities and Industries List (HAIL)	a. Ministry for the Environment (MfE)	i. a compilation of activities and industries likely to cause land contamination
2. Listed Land Use Register (LLUR)	a. Canterbury Regional Council (CRC)	i. a database that identifies sites where hazardous activities and industries are or have been located throughout Canterbury
3. The Te Runanga o Ngai Tahu Hazardous Substances and New Organisms (HSNO) Policy Statement 2008	a. Te Runanga o Ngai Tahu	i. a resource for cultural risk assessment and decision making based on Ngai Tahu values
4. Users' Guide – National Environmental Standard for Assessing and Managing Contaminants in Soils to Protect Human Health	a. Ministry for the Environment	i. explanation and guidance on the regulations in the NES, including matters such as Good Practice for Councils and material incorporated by reference such as the Contaminated Land Management Guidelines 1 – Reporting, 2 – Hierarchy and Application of Guideline Values, and 5 – Site Investigations and Analysis of Soils
5. Contaminated Land Information Management Strategy May 2009	a. Canterbury Regional Council	i. the purpose of the strategy is to ensure the information Environment Canterbury holds about the contamination status of land parcels is managed in a clear and consistent manner, and that the information can be made readily available to appropriate parties involved in decision making, and management of sites
6. Canterbury Water Management Strategy: Christchurch-West Melton Water Management Zone – Zone Implementation Programme	a. Canterbury Water	i. The Zone Implementation Programme (ZIP) guides the implementation of the Canterbury Water Management Strategy (CWMS) in the Christchurch-West Melton Zone. It addresses all the CWMS targets, and contains 94 recommendations for Environment Canterbury, Christchurch City Council, Selwyn District Council, and other agencies. Priority outcomes for the

		zone include safeguarding groundwater and water quality from development, use and subdivision
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In addition to the above reports and advice, the Council has compiled, reviewed and developed a collection of materials on contaminated land issues (refer to Bibliography). This information has been used to inform the DPR and this s 32 report.

## 1.4 CONSULTATION

- a. During the pre-notification stage of drafting the Contaminated Land chapter, a number of consultation meetings were held.
- b. Key messages from the stakeholder sessions relevant to the Contaminated Land chapter include:
  - i. identification of contaminated sites; and
  - ii. confirmation of scope of issues to be addressed.
- c. Meetings were held with staff from the Canterbury Earthquake Recovery Authority, Environment Canterbury and Mahaanui Kurataiao Limited, in preparation of the draft chapter to outline the direction of the chapter and invite their feedback. Matters raised in the context of the Contaminated Land chapter include:
  - i. considering whether this chapter should address natural hazards;
  - ii. achieving a nationally consistent approach to managing and storing information;
  - iii. identification of what will be included in Land Information Memorandums (LIMs);
  - iv. opportunity to improve operational efficiency for consenting by providing guidance to applicants such as templates and check lists; and
  - v. coordination of matters with the Canterbury Regional Council, such as the adverse effects on water supplies being managed through the Land and Water Regional Plan.
- d. A Collaborative Agency Group comprising representatives of the Canterbury Regional Council, Selwyn District Council, Waimakariri District Council, Canterbury Earthquake Recovery Authority, New Zealand Transport Agency, Ngai Tahu and MfE (in an advisory role) has provided the following feedback on the Contaminated Land chapter:
  - i. Approach relies heavily on the NES without outlining what the Council deems important about how contaminated land will be managed. There is a lack of policy on how the objective will be achieved.
  - ii. Clarify how the methods listed will require a best-practise approach to risk investigation.

## 2. RESOURCE MANAGEMENT ISSUES

### 2.1 STRATEGIC PLANNING DOCUMENTS

- a. Those strategic matters and provisions that have been specifically given effect or had regard to in this chapter are summarised in the table below and are set out in full in **Appendix 1**. These documents already broadly identify the resource management issues for the district and provide the higher level policy direction to resolve these issues.
- b. The Strategic Directions chapter also contains higher order objectives and policies to reflect the outcomes sought in a number of strategic planning documents. An assessment of these objectives and policies is contained within the s 32 Strategic Directions report. Those objectives and policies within the Strategic Directions chapter that are relied on in this chapter are discussed in section 5 (Evaluation of Objectives) below.

Document	Relevant provisions	How the Contaminated Land chapter will take into account/give effect to the relevant provisions
1. Resource Management Act 1991 (RMA), as amended	a. 31 (1)(b)	i. Objective, policy and method for managing contaminated land
2. National Environmental Standard for Assessing and Managing Contaminants in Soils to Protect Human Health April 2011	a. Regulations	i. Objective, policy and method for managing contaminated land, and advice note regarding observance of the NES regulations
3. Canterbury Regional Policy Statement (CRPS)	a. Chapter 17	i. Objective, policy and methods for managing contaminated land
4. Canterbury Natural Resources Regional Plan	a. Chapters 4 – Water Quality and 8 – Soil Conservation	i. Addresses land use matters to complement the Regional Plan’s discharge provisions
5. Canterbury Land and Water Regional Plan	a. Volume 1 – Strategic Policies 4.9, 4.10 and 4.11	i. Objective addresses water supplies
6. The Canterbury Earthquake Recovery Strategy	a. Built Environment Recovery (5.7)	i. Method utilising established and coordinated data sources
7. The Land Use Recovery Plan (LURP)	a. 4.5 Natural Hazards and Environmental Constraints	i. Policy requiring best practice for investigation, management and remediation
8. The Iwi Management Plan (IMP)	a. Policy 10.1 Papatūānuku	i. Objective acknowledges cultural heritage issues

## 2.2 RESOURCE MANAGEMENT ISSUES

### RESOURCE MANAGEMENT ISSUE 1 – CONTAMINATED LAND HAS THE POTENTIAL TO CAUSE ADVERSE EFFECTS ON PEOPLE AND THE ENVIRONMENT

- a. Contaminated land has the potential to cause adverse effects on people and the environment.
- b. One of the Council's functions under s 31(1)(b) of the RMA is the prevention or mitigation of any adverse effects of the development, subdivision, or use of contaminated land. The issue is also, to an extent, recognised at a national level through the NES.
- c. Within the Christchurch district, a variety of past, and potentially present and future, activities have the potential to result in the contamination of land. These activities include industrial processes, storage of petro-chemicals and other volatile substances, and the application of agrichemicals such as pesticides. Currently there is incomplete data on the nature and location of contaminated land throughout the district.
- d. Canterbury Regional Council's LLUR contains a publicly available database that identifies sites where hazardous activities and industries are or have been located. The Christchurch list is compiled using historic records such as council files and trade directories, site investigation reports, resource consent applications and aerial photographs. It is a summary of the possible contamination and a categorisation of the site, based on that information. Environment Canterbury has not verified the accuracy or completeness of this information. The Canterbury Regional Council recognises that just because a property has a land use that is deemed hazardous or is on the LLUR, it doesn't necessarily mean it is contaminated. The only way to know if land is contaminated is by carrying out a detailed site investigation, which involves collecting and testing soil samples.
- e. The 2010 and 2011 earthquakes have given rise to a number of issues related to contaminated land. In particular, they have accelerated the need for residential and business development on greenfield and brownfield sites, some of which may be contaminated by former use. The new growth pattern for the city is set out in Chapter 6 of the CRPS. Ensuring the effective management of contaminated land is therefore an important aspect of achieving a successful recovery and the sustainable management of resources.
- f. Consultation undertaken with Environment Canterbury has clarified the roles and responsibilities for managing contaminated land. Section 30(1)(ca) of the RMA directs that Regional Councils have a function to investigate, identify and monitor contaminated land. Once identified, the management of contaminated land needs to be addressed across a suite of RMA documents, including the NES, CRPS, regional plans and the District Plan. Consideration has been given to the relationship between these instruments to clarify the discrete areas of interest so that the various tiers of RMA documents are complementary and, in combination, provide a holistic approach to the management of contaminated land without overlap or duplication of provisions. The District Plan's focus is on the prevention or mitigation of any adverse effects on people or the environment arising from the development, subdivision, or use of contaminated land, whereas the Regional Plans focus on the effects of the discharge of contaminants to the environment. The NES provides a national rule framework in relation to human health, which does not need reiterating at the local level. However, the NES does not contain objectives or policies, which provide the framework for assessing resource consents at the local level within Christchurch.

- g. There are a number of environmental resources important for the well-being of the city, which can be adversely affected by inappropriate activity on contaminated land situated within or close by the asset. Water supplies, productive soils, and natural and cultural heritage features are considered to be particularly significant resources that are susceptible to the adverse effects of land contamination.

### 3. SCALE AND SIGNIFICANCE EVALUATION

- a. The level of detail undertaken for the evaluation of the proposed District Plan provisions has been determined by an assessment of the scale and significance of the implementation of the proposed District Plan provisions. The scale and significance assessment considers the environmental, economic, social and cultural effects of the provisions and regard has been made to whether:
  - i. the provision is of regional or city-wide significance and whether it is predetermined by a higher order document;
  - ii. the provision is important to resolve an issue or problem particularly to protect life and property; and/or
  - iii. there are a wide range of policy options or only variations of a theme;
  - iv. the policy direction (provision) will radically change from current provisions; and/or
  - v. the policy will affect reasonable use of land; and/or
  - vi. the provision will adversely affect those with particular interests including Maori (consideration needs to be given to whether there is certainty of effects based on the availability of information to assess benefits and costs); and
  - vii. the provision will directly assist in the city's recovery.
  
- b. Addressing contaminated land can be significant in terms of managing adverse effects on people and the environment, and on the compliance costs involved. It can affect a wide range of people as it occurs in a range of locations across the city. Effective management of contaminated land will not only be beneficial for people and the environment, but it can also assist in the city's recovery.
  
- c. Contaminated land is addressed in a range of higher order planning documents that compel the Council to give effect to the issue within the District Plan. The limited scope of the proposed District Plan provisions together with the fact they largely reflect the direction of the higher order documents indicates that the level of detail required for the s 32 evaluation of the Contaminated Land chapter is minimal. The evaluation of this chapter is therefore focused on the refinement of the objective and the policy and method proposed.

#### 3.1 Objectives

1. The objective contained within this chapter is largely reflective of those contained within the CRPS and the proposed Strategic Directions chapter. Those strategic directions having particular relevance to the Contaminated Land chapter are listed in the table below:

Provision	Policy Direction
a. Objective 3.6.1 – Recovery and long-term future of the district	i. The recovery and development of Christchurch as a dynamic and internationally competitive city ...
b. Objective 3.6.6 – Amenity, health and safety	i. The health and safety of the district's residents, and the amenity values they enjoy, are protected or enhanced, including: The protection of people and the environment from the adverse effects of contaminated land and hazardous substances.
c. Objective 17.2.1 – Protection from adverse effects of contaminated land (CRPS)	i. Protection of people and the environment from both on-site and off-site adverse effects of contaminated land.

Objective 3.6.6 does have city-wide significance, however as the District Plan must give effect to this policy direction (refer to CRPS, chapter 17), the evaluation of this objective has been minimal.

### **3.2 Policies and Rules**

One Policy is proposed, which requires a best practice approach be used for investigating, managing or remediating contaminated land. This is supported by a method which identifies data sources, to help establish whether land is potentially contaminated, and management guidelines to assist in achieving a best practice approach. An advice note draws attention to the role of the NES regulations.

## 4. EVALUATION OF OBJECTIVES

- a. Section 32(1)(a) of the RMA requires the Council to evaluate the extent to which the objectives are the most appropriate way to achieve the purpose (s5) of the Act.

### 4.1 Evaluation of Proposed Objective 12.2.1.1

#### GENERAL POLICY DIRECTION OPTIONS & RECOMMENDATIONS

Based on analysis of the Resource Management issues set out in s2.0, the following policy options have been considered in developing the approach for the management of contaminated land in Christchurch:

**a. Status quo – retain existing City and District Plan provisions**

- i. The current City and District Plan provisions pre-date the NES and CRPS. The current provisions are not comprehensive nor are they consistent across the city, having evolved in an incremental and ad hoc fashion through various plan changes. The Section 35 report on the operative City Plan indicates that it is only moderately effective and that action is required.
- ii. The Minister of Earthquake Recovery has approved the Christchurch Central and Land Use Recovery Plans. He has also made amendments to the operative City Plan to facilitate land repair under s 27 of the Canterbury Earthquake Recovery Act 2011 (CER Act). The s 27 provisions explicitly require compliance with the NES regarding remediating contaminated land. The LURP only provides a more general direction to review the District Plans. The issue of managing contaminated land is broader than earthquake recovery and is considered to extend beyond the scope of the CER Act.
- iii. This approach is therefore considered to not be the most appropriate way to achieve the purpose of the RMA.

**b. Rely on a combination of the NES and Regional Plan discharge provisions.**

- i. While the NES provides the rule framework for matters related to human health, it neither addresses the non-human health issues the city needs to address under the RMA, nor does this approach provide a framework of objectives and policies for the evaluation of discretionary or non-complying activities. Under the NES, s 75(1) of the RMA still requires district plans to state the objectives and policies for the district, although the NES provides 'bite' in that it determines the activity status for certain activities, policies and other matters deemed relevant to the district remain with the Council.
- ii. Relying on Regional Plan discharge provisions fails to address the land use activities that are the responsibility of territorial authorities under the RMA, including managing the effects of subdivision and development of contaminated land. For example, the fragmentation of contaminated sites due to subdivision or development can cause increased difficulty with the management and remediation of contamination. This approach would not address activities on or in proximity to contaminated land that could increase the risk for discharge of contaminants occurring, or the potential adverse effects arising from contact with contaminants.
- iii. Under this approach the Council would not be fulfilling its functions under s 31(1)(ia) of the RMA.
- iv. This approach is therefore considered to not be the most appropriate way to achieve the purpose of the RMA.

**c. Develop an overarching objectives, policies and methods framework within the District Plan that**

**complements the NES.**

- i. This approach is consistent with s 75 of the RMA, as it achieves an overarching integrated approach with the CRPS and the NES. It is not inconsistent with the Recovery Strategy for Greater Christchurch, and will assist in achieving the purpose of the RMA and sustainable rebuild and recovery from the effects of the earthquakes.
- ii. This approach is considered to be the most appropriate way of achieving the purpose of the RMA and is recommended as the basis for the Contaminated Land chapter relating to the management of contaminated land for public and environmental health reasons.

**ADOPTED GENERAL POLICY DIRECTION**

Option 3 – to establish overarching provisions for the management of contaminated land for public and environmental health reasons with regard to the adverse effects of subdivision, land development and use.

The direction taken reflects that in higher order planning documents which give little flexibility over how to approach this matter. It has been developed through consultation with the Canterbury Regional Council and draws on advice on their statutory role in dealing with contaminated land. Legal advice has also guided the approach in the context of the NES regulations.

For the first stage of the DPR priority has been given to matters that will assist earthquake recovery. For contaminated land, this is primarily focused on matters related to human health and the observance of the NES in the development or redevelopment of land.

**OBJECTIVE MOST APPROPRIATE WAY TO ACHIEVE THE PURPOSE OF THE RMA**

Objective	Summary of evaluation
<p><b>12.2.1.1 Contaminated Land – Managing Effects</b> Land containing elevated levels of contaminants is managed to protect:</p> <ol style="list-style-type: none"> <li>1. human health;</li> <li>2. water supplies, particularly within groundwater protection zones;</li> <li>3. productive soils; and</li> <li>4. significant natural and cultural heritage sites</li> </ol> <p>from the adverse effects of subdivision, development and use of contaminated land and natural hazards, including from site investigations, earthworks and soil disturbance, and enable this land to be used in the future.</p>	<ol style="list-style-type: none"> <li>a. The objective is consistent with the duties imposed on the Council by s 31(b)(iia) of the RMA and gives effect to Objective 17.2.1 of the RPS. It addresses the sustainable management of natural and physical resources that are pertinent to the district. Due to the direction set in these higher order documents there is little scope for taking a radically different approach.</li> <li>b. It is also not inconsistent with the Recovery Strategy for Greater Christchurch or the LURP as both documents seek a recovery.</li> <li>c. The objective addresses the key components of s 5 of the RMA – avoiding or mitigating adverse effects on the environment, sustaining the potential of natural and physical resources to meet the needs of future generations, and safeguarding the life-supporting capacity of soils and ecosystems.</li> <li>d. This approach is complementary to and consistent with the provisions in regional plans. It addresses protecting water supplies and productive soils from land use activities that could, if poorly managed, give rise to</li> </ol>

	<p>adverse effects on water and soil quality in the future because of the increased risk of disturbance that may lead to the potential for contaminants to be discharged from the land.</p> <p>e. It is considered that this objective is the most appropriate way to achieve the purpose of the RMA.</p>
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## **5. EVALUATION OF PROPOSED POLICIES, RULES AND METHODS**

Section 32 (1)(b) requires an evaluation of whether the provisions are the most appropriate way to achieve the objectives by identifying other reasonable practicable options, assessing the efficiency and effectiveness of the provisions in achieving the objectives, and summarising the reasons for deciding on the provisions.

The assessment must identify and assess the benefits and costs of environmental, economic, social and cultural effects that are anticipated from the implementation of the provisions, including opportunities for economic growth and employment. The assessment must if practicable quantify the benefits and costs and assess the risk of acting or not acting if there is uncertain or insufficient information available about the subject matter.

### **5.1 Policy 12.2.2.1 and Methods relating to Contaminated Land and the NES**

PROVISIONS (POLICY, RULE, METHOD) <u>MOST APPROPRIATE WAY TO ACHIEVE THE OBJECTIVES</u>	
<b>Relevant objective:</b> <b>Objective 12.2.1.1: Contaminated Land – Managing Effects</b>	
Provision(s) most appropriate	Effectiveness and efficiency
<p><b>1. Option 3 – Overarching policy</b></p> <p><b>Policy 12.2.2.1</b> Require any proposal to subdivide, use or develop contaminated or potentially contaminated land to apply a best practice approach to investigate the risks, and either remediate the contamination or manage activities on contaminated land to protect people and the environment.</p> <p><b>Method</b>  The Ministry for the Environment’s Hazardous Activities and Industries List (HAIL), properties listed on Environment Canterbury’s LLUR, Council records and site investigations shall provide the basis for identifying whether land is contaminated or potentially contaminated. It is the duty of the person undertaking any activity to ascertain whether the land is contaminated, irrespective of whether the land is identified as having a current or past use that is identified in the HAIL. Use of the Ministry for the Environment’s Contaminated Land Management Guidelines will form part of the approach to achieving best practice. Where contamination is confirmed and this data becomes known to the Council, it will be included on LIMs.</p>	<p><b>a. Effectiveness</b></p> <ul style="list-style-type: none"> <li>i. A best practice approach will utilise the most relevant mechanisms with respect to the site-specific issues. The MfE currently provides best practice guidance through its Contaminated Land Management Guidelines. This approach can either be targeted at addressing the risks associated with the proposed activities or, if appropriate, provide a broad response that seeks to maximise rehabilitation or containment of contaminated land in order to enable increased flexibility for future use and protection of the environment. Such an approach provides a process that is capable of being flexible in relation to the outcome sought. Utilising the most relevant up-to-date methodology will ensure this approach to managing contaminated land is effective for both activities on sites affected by contaminated land and the environment. It can also help to ensure costs are effectively targeted at the relevant issues and outcomes sought. This approach is consistent with that used in the NES and gives effect to CRPS Policies 17.3.2 and 17.3.4.</li> <li>ii. The provisions of the NES will give effect to the policy with respect to human health. The other issues identified within Objective 12.2.1.1 will be addressed through Phase 2 of the DPR.</li> </ul> <p><b>b. Efficiency</b></p> <ul style="list-style-type: none"> <li>i. Policy 12.2.2.1 will achieve efficiency in enabling the most appropriate forms of development and greatest extent of activities on the land, consistent with the purpose of the RMA. It allows for risk to be managed to the appropriate level for the type of contaminants and activity. This recognises that it is not always necessary or cost effective to fully remediate all sites in every circumstance.</li> <li>ii. The method draws on established national and regional data and directs people to the MfE national guidelines. This will achieve consistency with the approach adopted by the NES and the Canterbury Regional Council thereby enabling a more streamlined and efficient process.</li> </ul>

**c. Costs**

- i. In the short term, there will be financial costs associated with undertaking detailed investigations and remediation. There may be ongoing costs for the management of sites to ensure the contamination is effectively managed. However, this needs to be weighed against the potential financial, environmental and social costs that can arise from the discharge of contaminants into the environment, which could occur from ineffective management of development. The costs of inappropriate management of contaminated land can be reflected in a number of ways including: decrease in land value, increased complexity for future management and remediation, and impacts on people's health.
- ii. Using established best practice can help reduce the cost in developing the appropriate approach to investigations, management and remediation.
- iii. The Mahaanui Iwi Management Plan points to the cultural costs arising from the adverse effects of contaminated land.

**d. Benefits**

- i. Management of contaminated land can assist in creating opportunities for more efficient and sustainable use of the land in the future, which can have positive economic and environmental benefits.
- ii. The policy does not prescribe a set process to achieving the objective. This enables a bespoke response to be tailored to the individual circumstances. This enables both an efficient and effective approach that reduces the overall compliance burden whilst ensuring the purpose of the RMA is achieved.
- iii. The policy is not inconsistent with the Recovery Strategy for Greater Christchurch or the draft LURP. It can assist in achieving sustainable rebuild and recovery.
- iv. Compared to either a more prescriptive or a laissez faire approach, this is the most appropriate way of achieving the objective of managing the effects of contaminated land.



<b>Options less or not as appropriate to achieve the objectives and policies:</b>	
<p><b>Option 1 (Status quo – current policies and rules)</b></p> <p>Zone-based policies, primarily focused on new greenfield residential growth areas. Rules including development standards and assessment matters.</p>	<p><b>a. Appropriateness</b></p> <p>i. The current District Plan provisions pre-date the NES and are not comprehensive or consistent across the city. They do not address all of the issues that have been identified within the objective as potentially significant in respect of the management of contaminated land. There are inconsistencies with the NES provisions. This approach is therefore not considered to be the most appropriate.</p>
<p><b>Option 3 (Less directive/conservative policies and rules)</b></p> <p>No provisions, or a directive policy requiring detailed rules and/or standards prescribing the specific or generic approach to investigation, management or remediation.</p>	<p><b>a. Appropriateness</b></p> <p>i. A more laissez faire approach runs the risk of failing to adequately identify and address the relevant issues identified through the objective. This can increase the risk of potential adverse effects for both people and the environment, thus rendering it ineffective. This may ultimately lead to greater restrictions on the use of land and an increase in long-term management and rehabilitation costs, which would reduce efficiency.</p> <p>ii. As there is evidence to indicate the presence of contaminated land within the district, an approach that does not take action in response to this would not be consistent with the purpose of the RMA or the functions of the territorial authority, as set out in s 31(1)(b)(iia) of the RMA.</p> <p>iii. While a more conservative or prescriptive approach, i.e. a specified process for managing or remediating contaminated land will provide greater certainty over the methodology to be used, it would need to be broad enough to cover a wide variety of situations. This is likely to entail an increased regulatory burden for some, which may be inconsistent with the level or nature of contamination. This can increase uncertainty in respect of the outcome, and add to time and cost. Additionally, best practice will evolve over time, hence a prescribed approach is likely to become out of date, and therefore less effective over time. There is also the risk of being inconsistent with the provisions of the NES. This approach is therefore not considered to be the most appropriate.</p>
<b>Risk of Acting or Not Acting</b>	
<p>The risk of taking action to include policy provisions within the District Plan is that at present there is only partial data on the location and nature of contaminated land within Christchurch. However, more comprehensive information is being compiled, e.g. HAIL and the LLUR. Together with site-specific investigation this will provide a framework that helps to identify contaminated land and enable appropriate management to be applied. Due to the absence of comprehensive data there is a risk that the proposed provisions may not be applied to unidentified contaminated sites, while identified sites will face an additional compliance burden.</p>	

It is not proposed to directly identify all actual or potentially contaminated land within the District Plan. While the comprehensive identification of contaminated land may appear to provide more clarity and certainty, current investigations suggest that knowledge of the location and nature of contaminated land is incomplete and that data on the existence of contaminants is continually evolving. Therefore there is a real risk identification of contaminated land within the District Plan would at any point in time be incomplete. Section 30 (1)(ca) of the RMA establishes that one of the functions of regional councils is the investigation of land for the purposes of identifying and monitoring contaminated land. Alternative data sources that help to identify contaminated land within Christchurch have been identified, e.g. HAIL and the LLUR. While these are not necessarily complete, the ability to amend and update these is significantly more efficient than making regular changes to the District Plan through the RMA Schedule 1 process. Where information on contaminated land becomes known to the Council, it will be included in the relevant LIM. Together these non-District Plan data sources provide sufficient information to enable the proposed objective and policy to be applied with confidence to sites where there is evidence to suggest contaminated land exists.

While choosing to not take action can reduce the administration burden on landowners and developers, it runs the risk of exposing people to contamination and the potential for adverse discharges to the environment to increase. Where there is data to establish the presence of contamination, an approach that does not take action in response to this would not be consistent with the purpose of the RMA or the functions of the territorial authority as set out in s 31 (1)(b)(iia). The s 35 reports on the operative district plans indicate action is required. In the long run, choosing not to act is likely to have adverse effects on the social, health, economic, cultural and environmental well-being of Christchurch.

There are risks associated with either acting or not acting in relation to provisions on contaminated land. Based on the evaluation undertaken, it is considered that, on balance, there is greater risk of adverse effects to people and the environment from not acting in the absence of complete information.

## 6. SUMMARY OF CONSULTATION

1. A range of consultation processes were used in developing the draft provisions.
2. Ongoing dialogue was undertaken with Ecan staff during the development of the draft provisions between September 2013 and March 2014. This helped to identify the differing roles and responsibilities between regional and district plans, and to ensure an integrated approach is established consistent with CRPS policy 17.3.4. This also helped to ensure there is a better understanding of the key regional data source being developed through the LLUR of HAIL sites.
3. Collaborative agency workshops with CERA, Ecan, NZTA, Ngai Tahu and Selwyn and Waimakariri District Councils have been undertaken as part of the review process. On 31 October 2013 the approach to contaminated land was considered. Advice from these agencies has been received and taken into account as the provisions have been prepared. The s 32 evaluation has also been revised to include greater clarification of the scope of this phase of the review. On 14 January 2014 Ecan subsequently raised comments regarding clarification of best practice and reference to the Council records as part of the method for identification of contaminated land. These aspects have been taken on board as part of the revisions to the draft provisions. Ecan also considered that the adverse effects on water supplies will be managed through the Land and Water Regional Plan. However this has not been fully accepted as land use activities can give rise to potential issues with water supplies. For instance, subdivision can lead to fragmentation of ownership of a contaminated site, which can give rise to more complex and costly management. Therefore it is considered appropriate for this to be addressed within the District Plan.
4. On 17 March 2014 a meeting took place with representatives of CERA, MfE and Ecan. This discussed a range of issues related to contaminated land and earthquake recovery. In particular it raised the issue of including reference to natural hazards and the need to achieve a nationally consistent approach to managing and storing information. These issues have been recognised and incorporated into the revised draft. A commitment to improving operational efficiency for consenting by providing guidance to applicants such as templates and check lists was also raised, as was the scope for including additional information in LIMs. These aspects have not been taken forward as part of this review as they are considered to be matters that can be addressed outside the District Plan, and work is already underway in this respect. Some aspects of the discussion were considered beyond the scope of the DPR, such as ongoing use of contaminated land. It is considered that this would be better addressed at a national level by MfE as part of their review on the NES.
5. Pre-notification workshops and public meetings were held between 25 February and 27 March 2014. Little direct comment was received from these. The main issue related to understanding how contaminated sites would be identified.
6. The draft objective and policy have been revised in light of the feedback received from consultation. In particular, the objective has developed the broad approach identified in CRPS objective 17.2 to provide a greater focus on the matters identified in s 31(b)(iia) of the RMA and issues of particular significance to Christchurch. The policy has similarly been refined with the intention it does not duplicate matters dealt with through the Regional Plan or other legislation. Consideration was also given to the means to draw attention to the source of data on contaminated land, whilst ensuring consistency with the provisions of RMA Schedule 1 Part 3 – Incorporation of documents by reference. This has led to the inclusion of advisory notes and methods to assist the administration of the plan. The method also been expanded to provide details to assist with achieving best practice.

## BIBLIOGRAPHY

1. Material, reports information, data used to develop the chapter and review provisions.
2. **Hazardous Activities and Industries List**  
The Ministry for the Environment has published the Hazardous Activities and Industries List, which is a compilation of activities and industries likely to cause land contamination. The Hazardous Activities and Industries List is referenced in the National Environmental Standard for Assessing and Managing Contaminants in Soils to Protect Human Health and therefore has regulatory significance.
3. **Listed Land Use Register**  
In accordance with s 30 of the Resource Management Act 1991, Environment Canterbury maintains a database that identifies sites where hazardous activities and industries are or have been located throughout Canterbury. When identified and checked, these sites are listed on the regional Listed Land Use Register.
4. **Te Runanga o Ngai Tahu HSNO Policy Statement 2008**  
The Te Runanga o Ngai Tahu HSNO Policy Statement 2008 identifies the pollution of the natural environment from the storage, use and disposal of hazardous substances, including contamination of land and degradation of water or air quality as an issue. In particular, Policy 3.1.9 states:  
*to not accept the discharge of any hazardous substance to water or land whereby the discharge will result in the contamination (physical or spiritual) of that land or water.*
5. **Ministry for the Environment Users' Guide – National Environmental Standard for Assessing and Managing Contaminants in Soils to Protect Human Health April 2012**  
The Ministry for the Environment published the guide to explain and provide guidance on the regulations in the National Environmental Standard for Assessing and Managing Contaminants in Soils to Protect Human Health. This includes matters such as Good Practice for Councils and material incorporated by reference such as the Contaminated Land Management Guidelines: 1 – Reporting, 2 – Hierarchy and Application of Guideline Values, and 5 – Site Investigations and Analysis of Soils.
6. **Canterbury Regional Council Contaminated Land Information Management Strategy May 2009**  
The purpose of the strategy is to ensure the information Environment Canterbury holds about the contamination status of land parcels is managed in a clear and consistent manner, and that the information can be made readily available to appropriate parties involved in decision making, and management of sites.
7. **Canterbury Water Management Strategy: Christchurch–West Melton Water Management Zone – Zone Implementation Programme**  
The Zone Implementation Programme is intended to guide the implementation of the Canterbury Water Management Strategy in the Christchurch–West Melton Zone. It aims to address all the Canterbury Water Management Strategy targets, and contains 94 recommendations for Environment Canterbury, Christchurch City Council, Selwyn District Council, and other agencies. Priority outcomes for the zone include safeguarding groundwater and water quality from development, use and subdivision.

## APPENDIX 1: KEY STRATEGIC DOCUMENTS

Provisions that have been specifically taken into account, or to which regard has been given in this chapter are summarised below.

### 1. Resource Management Act 1991, as amended

The Council has as one of its functions under s 31 (1)(b) of the Resource Management Act 1991, the prevention or mitigation of any adverse effects of the development, subdivision, or use of contaminated land.

### 2. Resource Management (National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health) Regulations 2011 (the NES)

The Council is required to observe and enforce the requirements of the NES. The NES prevails over any District Plan rule related to the assessment and management of contaminants in soil to protect human health. The NES provides a nationally consistent set of planning controls and soil contaminant values, and ensures that land affected by contaminants in soil is appropriately identified and assessed before it is developed. It ensures that, if necessary, the land is remediated or the contaminants contained to make the land safe for human use. Resource consent must be obtained if this standard cannot be met.

While the NES addresses the management of contaminated land from a human health perspective in the form of activity rules and standards, it does not provide objectives or policies. Neither does it address the management of contaminated land for environmental health reasons.

### 3. The Canterbury Earthquake Recovery Strategy

The goal for the Built Environment Recovery is to develop resilient, cost-effective, accessible and integrated infrastructure, buildings, housing and transport networks by (5.7) drawing on sound information about ongoing seismic activity and environmental constraints, and including other natural hazards and climate change. Whilst it does not specifically reference contaminated land, this forms part of the wider risk analysis for development. Incorporating contaminated land provisions within the District Plan can thus assist recovery.

### 4. The Land Use Recovery Plan

The Natural Hazards and Environmental Constraints s 4.5.2 outlines key projects in the Natural Environment Recovery Programme to identify and address the impacts related to earthquake recovery and enhancement opportunities, including contaminated land. Incorporating contaminated land provisions within the District Plan can thus contribute to assisting recovery.

### 5. Canterbury Regional Policy Statement (CPRS)

Chapter 17 of the Canterbury Regional Policy Statement sets out objectives, policies and methods for the management of contaminated land. Objective 17.2.1 seeks to protect people and the environment from the adverse effects of contaminated land.

The policy provisions to deliver this objective are summarised below:

- a. Policy 17.3.1 seeks to identify land that has been used for activities that could result in the contamination of land, and where appropriate verifies the existence of contamination. This is primarily the responsibility of the Canterbury Regional Council.
- b. Policy 17.3.2 requires district plans to include provisions that require the investigation of land identified as actually or potentially contaminated prior to new subdivision, use or development of the land, and that any adverse effects are avoided, remedied or mitigated.
- c. Policy 17.3.3 allows for contaminants to remain in the ground only where discharges will not result in significant risk to human health or the environment.

- d. Policy 17.3.4 promotes an integrated approach to management of contaminated land. This includes consolidating information on the Canterbury Regional Council register, supporting the use of government and industry-led guidelines and engagement with Ngai Tahu including using the Iwi Management Plan.

#### **6. Canterbury Regional Plans**

The Natural Resources Regional Plan includes objectives and policies regarding contaminated land in chapter 4 – Water Quality and chapter 8 – Soil Conservation. The proposed Canterbury Land and Water Regional Plan also contains provisions on the discharge of contaminants to land or to water in volume 1 – Strategic Policies 4.9, 4.10 and 4.11. These matters are complementary to but separate from land use matters.

#### **7. Mahaanui Iwi Management Plan 2013**

The Mahaanui Iwi Management Plan 2013 addresses the management of contaminated land in policy 10.1 Papatūānuku. This identifies that the management of contaminated land must recognise and provide for specific cultural issues.

**APPENDIX 2: LINKAGES BETWEEN PROVISIONS**

Linkages and grouping of provisions under proposed policy direction:

Issue	Directions	Objectives	Policies	Rules	Assessment Matters
<p>1. <i>Strategic Direction 3.4.4.5 Health and safety of people and the environment</i></p>	<p>a. <i>3.5.3.2 Communities are safe and resilient</i>                      b. <i>3.5.4.1 The district’s distinctive landscapes and indigenous biodiversity are protected and enhanced</i>                      c. <i>3.5.4.2 Water/wai quality and quantity are protected and enhanced</i></p>	<p>i. <i>3.6.6 Amenity, health and safety</i></p>			
<p>2. <i>Issue 1 Contaminated land has the potential to cause adverse effects on people and the environment.</i></p>	<p>a. <i>12.2.1 Objective</i></p>	<p>i. <i>12.2.1.1 Contaminated Land – Managing Effects</i></p>	<p>A. <i>12.2.2.1 Best Practice</i></p>	<p>Method</p>	