

Section 32 Evaluation Report

Part 2: Hazardous Substances and Contaminated Land

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Table of acronyms

Abbreviation	Full term
CL	Contaminated Land
GWRC	Greater Wellington Regional Council
HS	Hazardous Substances
MfE	Ministry for the Environment
NES	National Environmental Standards
NESCS	National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health 2011
NPS	National Policy Statements
ODP	Operative District Plan
ONFL	Outstanding Natural Features and Landscapes
PDP	Proposed District Plan
PNRP	Proposed Natural Resources Plan
RMA	Resource Management Act
RPS	Regional Policy Statement for the Wellington Region 2013
SALs	Special Amenity Landscapes
SNAs	Significant Natural Areas

1.0 Overview and Purpose

1.1 Introduction to the resource management issue/s

This section 32 evaluation report is focussed on the district-wide chapters that address hazardous substances and contaminated land.

Hazardous substances

The purpose of the hazardous substances chapter is to protect people, communities and identified areas and their values from residual and cumulative risk of facilities and activities involving the manufacture, use, storage, transportation or disposal of hazardous substances.

A key feature of the Operative District Plan's hazardous substances provisions is the Hazardous Facilities Screening Procedure (HFSP). The HFSP is a method to assess the potential cumulative environmental effects presented by hazardous substances on a site, and whether the calculated effect ratio is higher than the specific limits set for the different land use consents. However, the HFSP is quite technically complex to implement and is no longer promoted as best practice, with many territorial authorities now moving away from this approach.

In addition to this, the effectiveness of the Operative District Plan is limited because it predates the Resource Legislation Amendment Act 2017 (RLAA). This amendment removed the function of territorial authorities to control the adverse effects of the storage, use, disposal, or transportation of hazardous substances under s31 of the RMA. As such Wellington City Council no longer has an explicit obligation to manage hazardous substances.

Also of importance are changes to the non-RMA regulatory framework since the District Plan became operative, including further regulations under the Hazardous Substances and New Organisms Act 1996 (HSNO) and Health and Safety at Work Act 2015 (HSW Act). Among a wide range of regulations and subordinate instruments, including industry standards, these pieces of legislation are now the primary control for hazardous substances.

As the Operative District Plan predates the RLAA, it includes provisions that overlap and duplicate the role and function of national and regional planning frameworks, particularly controls under HSNO and the HSW Act.

As such, the Proposed District Plan should only place additional controls on hazardous substances if/where they are necessary to control effects under the RMA that are not otherwise addressed by controls already imposed. These matters include land use controls to address reverse sensitivity effects, managing the locations of sensitive activities and major hazard facilities, as well as protecting people, communities, and identified sensitive areas from unacceptable residual and cumulative risk.

Contaminated land

The purpose of the contaminated land chapter is to manage the subdivision, use and development of contaminated land to protect human health, as well as to recognise the benefits of remediation and site management.

The Operative District Plan seeks to control the adverse effects on human health and the environment associated with the use, development, and subdivision of contaminated land. It also encourages the remediation and/or ongoing management of contaminated or potentially contaminated land. However, the effectiveness of the Operative District Plan is limited because it predates the Resource Management (National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health) Regulations 2011

(NESCS). As such, the provisions are no longer fit for purpose or relevant, and in some instances overlap and duplicate the role and function of national and regional planning frameworks.

The primary control for contaminated land is the NESCS, which provides a nationally consistent set of planning controls to ensure land affected by contaminants in soil is appropriately identified and assessed before it is developed, and if necessary, the land is remediated, or the contaminants contained to make the land safe for human use. Under s43B of the Resource Management Act (RMA), the NESCS does not provide for district plan rules or consent conditions to be more stringent than the provisions of the NESCS. However, the NESCS does not contain any objectives or policies to guide decision making when a consent is triggered by its rules. As such, the Proposed District Plan provisions can assist in the administration of the NESCS to help guide decision making under s104 of the RMA.

2.0 Reference to other evaluation reports

This report should also be read in conjunction with the following evaluation reports:

Report	Relationship to these topics
<i>All Zone chapters</i>	All of the Zone chapters are to an extent relevant to this evaluation report, in terms of the compatibility of sensitive activities and hazardous facilities, particularly major hazard facilities, and the nature and extent of contaminated land across the city.

3.0 Strategic Direction

The following objectives in the Strategic Direction chapter of the Proposed District Plan that are relevant to these topics are:

AW-O2	City Economy, Knowledge and Prosperity
<i>The relationship of Tangata Whenua with their Lands and Traditions is recognised and provided for, including:</i>	
<ol style="list-style-type: none"> 1. <i>The use, development and expansion of Treaty Settlement land and any land that is subject to Deed of Settlement provisions relating to right of first refusal land, in a manner that recognises its commercial redress purposes; and</i> 2. <i>The use and development of all other land to provide for the social, economic, commercial, and cultural aspirations of Tangata Whenua.</i> 	
CC-O2	Capital City
<i>Wellington City is a well-functioning Capital City where:</i>	
<ol style="list-style-type: none"> 1. <i>A wide range of activities that have local, regional and national significance are able to establish;</i> 2. <i>The social, cultural, economic and environmental wellbeing of current and future residents is supported;</i> 3. <i>Mana whenua values and aspirations become an integral part of the City's identity;</i> 4. <i>Urban intensification is delivered in appropriate locations and in a manner that meets the needs of current and future generations;</i> 5. <i>Innovation and technology advances that support the social, cultural, economic and environmental wellbeing of existing and future residents are promoted; and</i> 	

6. <i>Values and characteristics that are an important part of the City's identity and sense of place are identified and protected.</i>	
CC-O3	Capital City
<i>Development is consistent with and supports the achievement of the following strategic City objectives:</i>	
<ol style="list-style-type: none"> 1. <i>Compact: Wellington builds on its existing urban form with quality development in the right locations;</i> 2. <i>Resilient: Wellington's natural and built environments are healthy and robust, and we build physical and social resilience through good design;</i> 3. <i>Vibrant and Prosperous: Wellington builds on its reputation as an economic hub and creative centre of excellence by welcoming and supporting innovation and investing strategically to maintain a thriving economy;</i> 4. <i>Inclusive and Connected: Wellington recognises and fosters its identity by supporting social cohesion and cultural diversity, and has world-class movement systems with attractive and accessible public spaces and streets;</i> 5. <i>Greener: Wellington is environmentally sustainable and its natural environment is protected, enhanced and integrated into the urban environment; and</i> 6. <i>Partnership with mana whenua: Wellington recognises the unique role of mana whenua within the city and advances a relationship based on active partnership.</i> 	
CEKP-O3	City Economy, Knowledge and Prosperity
<i>Mixed use and industrial areas outside of Centres:</i>	
<ol style="list-style-type: none"> 1. <i>Complement the hierarchy of Centres;</i> 2. <i>Provide for activities that are incompatible with other Centres-based activities; and</i> 3. <i>Support large scale industrial and service-based activities that serve the needs of the City and wider region.</i> 	
CEKP-O4	City Economy, Knowledge and Prosperity
<i>Land within the City Centre, Centres, Mixed Use, and General Industrial Zones is protected from activities that are incompatible with the purpose of the zone or have the potential to undermine the City's hierarchy of centres.</i>	
HHSASM-O3	Historic Heritage and Sites and Areas of Significance to Māori
<i>The cultural, spiritual and/or historical values associated with sites and areas of significance to Māori are protected.</i>	
SCA-O4	Strategic City Assets and Infrastructure
<i>Regionally significant infrastructure is provided for in appropriate locations and the social, cultural economic, and environmental benefits of this infrastructure are recognised and provided for.</i>	
UFD-O5	Urban Form and Development
<i>Sufficient, feasible land development capacity is available to meet the short, medium, and long-term housing and business land needs of the City as identified in the Wellington Regional Housing and Business Capacity Assessment.</i>	

An evaluation of these objectives is contained in the companion Section 32 Evaluation Overview Report.

4.0 Regulatory and policy direction

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.

Section 5 sets out the purpose of the RMA, which is to promote the sustainable management of natural and physical resources.

Sustainable management '*means managing the use, development, and protection of natural and physical resources to enable people and communities to provide for their social, economic and cultural wellbeing and for their health and safety, while -*

- (a) sustaining the potential of natural and physical resources (excluding minerals) to meet the reasonably foreseeable needs of future generations; and*
- (b) safeguarding the life-supporting capacity of air, water, soil, and ecosystems; and*
- (c) avoiding, remedying, or mitigating any adverse effects of activities on the environment'.*

In achieving this purpose, all persons exercising functions and powers under the RMA also need to:

- Recognise and provide for the matters of national importance identified in s6
- Have particular regard to the range of other matters referred to in s7
- Take into account the principles of the Treaty of Waitangi/Te Tiriti o Waitangi in s8.

4.1 Section 6

There are no s6 matters directly relevant to hazardous substances or contaminated land.

4.2 Section 7

The s7 matters that are relevant to hazardous substances are:

Section	Relevant Matter
(b)	<i>the efficient use and development of natural and physical resources</i> The manufacture, use, storage, transportation and disposal of hazardous substances supports the efficient use of a range of natural and physical resources. This includes hazardous substances used, stored and transported as part of port and airport operations.
(c)	<i>the maintenance and enhancement of amenity values</i> The manufacture, use, storage, transportation and disposal of hazardous substances has the potential to adversely affect amenity values of identified areas if not properly managed.
(f)	<i>maintenance and enhancement of the quality of the environment</i> The manufacture, use, storage, transportation and disposal of hazardous substances has the potential to adversely affect the quality of the environment if not properly managed.

The s7 matters that are relevant to contaminated land are:

Section	Relevant Matter
(b)	<i>the efficient use and development of natural and physical resources</i> Remediation and site management of contaminated land supports the efficient use and development of land.
(f)	<i>maintenance and enhancement of the quality of the environment</i> Contaminated land has the potential to adversely affect the quality of the environment if not properly managed.

4.3 Section 8

The s8 principles of Partnership and Protection are relevant to these topics. The Council and Taranaki Whānui ki te Upoko o te Ika and Ngāti Toa Rangatira have worked in partnership to develop provisions relating to hazardous substances and contaminated land to ensure that sites and areas of significance are protected.

4.4 National Direction

4.4.1 National Policy Statements

There are five National Policy Statements (NPS) currently in force:

- NPS for Electricity Transmission 2008
- New Zealand Coastal Policy Statement 2010
- NPS for Renewable Electricity Generation 2011
- NPS for Freshwater Management 2020
- NPS on Urban Development 2020

There are no NPSs of direct relevance to hazardous substances. The NPS on Urban Development 2020 is somewhat relevant to contaminated land as it requires RMA plans to provide opportunities for land development to meet housing and business needs, supported by adequate development capacity. The remediation and/or site management of contaminated land can help to achieve the above outcomes through increased availability of land and development opportunities for residential and commercial activities.

4.4.2 Proposed National Policy Statements

In addition to the five NPSs currently in force there are also two proposed NPSs under development, noting that these are yet to be issued and have no legal effect:

- Proposed NPS for Highly Productive Land
- Proposed NPS for Indigenous Biodiversity

4.4.3 National Environmental Standards

In addition to the NPSs there are nine National Environmental Standards (NES) currently in force:

- NES for Air Quality 2004

- NES for Sources of Human Drinking Water 2007
- NES for Electricity Transmission Activities 2009
- NES for Assessing and Managing Contaminants in Soil to Protect Human Health 2011
- NES for Telecommunication Facilities 2016
- NES for Plantation Forestry 2017
- NES for Freshwater 2020
- NES for Marine Aquaculture 2020
- NES for Storing Tyres Outdoors 2021

The following standard and associated provisions relevant to these topics are:

NES	Relevant Regulations
NES for Assessing and Managing Contaminants in Soil to Protect Human Health (NESCS) 2011	<p>The NESCS provides a nationally consistent set of planning controls that must be enforced by a District Council under section 44A(8) of the RMA. The purpose of the NESCS is to ensure that land affected by contaminants in soil is appropriately identified and assessed before it is developed, and if necessary, the land is remediated or the contaminants contained to make the land safe for human use.</p> <p>The NESCS regulates land that presently or historically has been used for a hazardous activity or industry listed on the Hazardous Activities and Industries List (HAIL). The NESCS contains regulations for assessing and managing the actual or potential adverse effects of contaminants in soil on human health in relation to subdivision, land-use change, soil disturbance, soil sampling, and removing/replacing fuel storage systems. Under section 44A of the RMA, a District Plan must not contain rules that duplicate or conflict with a provision in a national environmental standard.</p>

4.4.4 National Planning Standards

The National Planning Standards require that where the following matters are addressed, they must be included *under the Hazards and Risks (HAZ) heading* in Part 2 – District-Wide Matters of the District Plan:

- Provisions to manage contaminated land must be located in a chapter titled Contaminated Land.
- Provisions relating to hazardous substances must be located in a chapter titled Hazardous Substances.

The mandatory directions in 7. District-Wide Matters Standard also specify that where the following matters are addressed, they must be located in a Hazardous Substances chapter:

- a. any provision required to manage the land use aspects of hazardous substances
- b. provisions relating to the use, storage and disposal of hazardous substances on land that presents a specific risk to human or ecological health, safety and property
- c. provisions required to manage land use in close proximity to major hazard facilities to manage risk and reverse sensitivity issues.

There is also a standardised definition of ‘contaminated land’ and ‘hazardous substance’.

4.5 National Guidance Documents

There is no national guidance relevant to hazardous substances.

The following national guidance documents are considered relevant to contaminated land:

Document	Relevant provisions
Contaminated land management guidelines No.1: Reporting on contaminated sites in New Zealand (Revised 2021), MfE, 2011	<p>This document seeks to ensure consistency in reporting on contaminated site investigations. It includes checklists for reporting requirements for contaminated sites and for the removal of petroleum underground storage tanks.</p> <p>This guideline describes the various types of reports that are commonly required, and their specific requirements, purposes and uses:</p> <ul style="list-style-type: none"> • preliminary site investigation report • detailed site investigation report • remedial action plan • site management • site validation report • ongoing site management plan • routine monitoring report
Contaminated land management guidelines No.5: Site investigation and analysis of soils (Revised 2021), MfE, 2011	<p>This document seeks to promote a nationally consistent approach to the investigation and assessment of contaminated sites. The guideline describes good practice on how to design and carry out an investigation of land where contaminants are present or are suspected to be present, sampling and analysis of soils, and interpretation of data obtained.</p> <p>Detailed site investigations conducted for NESCS purposes and submitted to territorial authorities must be undertaken in accordance with this guideline.</p>
Users' guide: National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health, MfE, 2012	<p>This document provides guidance on why the NESCS was introduced, an overview of the regulations, case studies and examples of good practice. It also provides guidance on the relationship of the NESCS with the RMA and Building Act, and the functions of regional and territorial authorities.</p>

4.6 Regional Policy and Plans

Regional Policy Statement for the Wellington Region 2013 (RPS)

The table below identifies the relevant provisions and resource management topics for contaminated land and hazardous substances contained in the RPS.

Regulatory policies – soils and minerals	
Section	Relevant matters
Policy 34: Controlling activities on contaminated land – district plans M	<p>Policy 34 directs city and district councils to include policies and rules in their district plans to control activities on contaminated land so that those activities are not adversely affected by the contamination. The explanation of this policy outlines that new land uses should be avoided unless adverse effects associated with the contamination can be appropriately managed, remedied or mitigated to a level which is safe for the intended use.</p> <p>It should be noted that whilst the RPS was made operative on 24 April 2013, the development and implementation of this policy in the proposed RPS predates the NESCS 2011, and as such the extent of territorial authority responsibilities should be viewed in the context of the NESCS.</p>
Allocation of responsibilities – hazardous substances	
Section	Relevant matters
Policy 63: Allocation of responsibilities for land use controls for hazardous substances M	<p>Policy 63 allocates responsibilities for land use controls for hazardous substances under s62 of the RMA. This policy allocates to territorial authorities the responsibility for developing objectives, policies, rules, and methods for the control of the use of land for the prevention or mitigation of any adverse effects of the storage, use, disposal or transportation of hazardous substances on any land that is not located in the coastal marine area and the beds of lakes and rivers.</p> <p>It should be noted that the RPS was made operative on 24 April 2013, and as such this policy predates the RLAA 2017, and therefore the allocation of responsibilities to territorial authorities should be viewed in the context of the revised duties pertaining to hazardous substances. It is also noted that s75(3)(c) of the RMA sets out that a district plan must give effect to any regional policy statement. The RLAA 2017 withdrew much of the requirement of councils to control hazardous substances, and particularly duplication of HSNO provisions. However, a district plan will generally provide zoning as a land use control technique to establish suitable locations for different levels of hazardous substance activities.</p>

*M = policies which must be implemented in accordance with stated methods in the RPS
R = policies to which particular regard must be had when varying a district plan*

Regional Plans

There are currently five operative regional plans and one proposed regional plan for the Wellington region:

- Regional Freshwater Plan for the Wellington Region, 1999
- Regional Coastal Plan for the Wellington Region, 2000
- Regional Air Quality Management Plan for the Wellington Region, 2000
- Regional Soil Plan for the Wellington Region, 2000
- Regional Plan for Discharges to Land for the Wellington Region, 1999
- Proposed Natural Resources Plan, appeals version 2021

The proposed Natural Resources Plan (PNRP) replaces the five operative regional plans, with provisions in this plan now largely operative with the exception of those that are subject to appeal.

The table below identifies the relevant provisions for hazardous substances and contaminated land contained in the Regional Coastal Plan and Regional Plan for Discharges to Land for the Wellington Region.

Regional Coastal Plan for the Wellington Region	
Section	Relevant matters
<i>Objective 6.1.3</i>	<i>The environment is protected from the adverse effects and risks associated with spills from facilities using and/or storing of hazardous substances.</i>
<i>Objective 6.1.4</i>	<i>The community and its assets are protected from unacceptable risks from facilities using and/or storing hazardous substances.</i>
<i>Policy 6.2.12</i>	<p><i>6.2.12 To manage hazardous facilities and activities involving the use and/or storage of hazardous substances so that adverse effects and unacceptable risks to the environment, human health and property are avoided, remedied or mitigated, including:</i></p> <ul style="list-style-type: none"> <i>• contamination of soil, water or air;</i> <i>• short or long term damage to ecosystems; and</i> <i>• damage through fire and explosion events</i>
Regional Plan for Discharges to Land for the Wellington Region	
Section	Relevant matters
<i>Objective 4.1.7</i>	<i>The potential for unplanned discharges of hazardous substances in the Region is minimised, and appropriate action is taken to avoid, remedy or mitigate the adverse effects of any unplanned discharge that does occur.</i>
<i>Objective 4.1.8</i>	<p><i>Any adverse effects from the planned discharge of a hazardous substance to land, in the course of</i></p> <p><i>(1) the use of a hazardous substance; or</i></p> <p><i>(2) the disposal of a hazardous waste</i></p> <p><i>are avoided, remedied or mitigated.</i></p>
<i>Objective 4.1.9</i>	<i>Site contamination in the Wellington Region is identified and characterised, where possible, within three years of the adoption of this Plan.</i>
<i>Objective 4.1.10</i>	<i>Any risk to human and environmental health presented by contaminated sites is lowered to an acceptable level or the site is otherwise managed in an appropriate and timely manner.</i>
<i>Objective 4.1.11</i>	<i>The risk of any further sites within the Wellington Region becoming contaminated is minimised.</i>

<i>Policies 4.2.25 – 4.2.30 and 4.2.41</i>	These policies seek to establish assessment matters and clarify responsibilities for controlling the use of land for the purpose of preventing or mitigating any adverse effects of the storage, use, disposal or transportation of hazardous substances.
<i>Policies 4.2.43 and 4.2.44</i>	These policies seek to identify and evaluate sites with a history of using, storing or manufacturing hazardous substances in the Wellington Region, and set priorities for further investigation to confirm the presence or absence of contamination.
<i>Policy 4.2.45</i>	This policy references the requirements of a regional database of contaminated and potentially contaminated sites.
<i>Policies 4.2.46 – 4.2.50</i>	These policies seek to encourage land owners and territorial authorities to identify and remediate contaminated sites, and manage activities on identified sites, giving particular consideration to actual or potential adverse effects on human health, ecosystems, and existing or future uses or water or land on the site and in the surrounding area.
<i>Rules 15 - 22</i>	Rules relating to hazardous substances and discharges and removal of material from contaminated sites.

The table below identifies the relevant provisions for hazardous substances and contaminated land contained in the Proposed Natural Resources Plan.

<i>Proposed Natural Resources Plan (Appeals version, 2021)</i>	
<i>Section</i>	<i>Relevant matters</i>
<i>Objective 43</i>	<i>Contaminated land is identified and the discharges of contaminants are managed to protect the environment.</i>
<i>Objective 51</i>	<i>The environment is protected from the adverse effects of discharges of hazardous substances and the creation of contaminated land is avoided.</i>
<i>Policy 89</i>	<i>The discharge of hazardous substances from contaminated land is managed so that significant adverse effects on fresh water, including groundwater, coastal water, and air are avoided, remedied or mitigated to the extent practicable</i>
<i>Policy 90</i>	<i>The adverse effects of the discharge of hazardous substances (excluding a discharge subject to Policy P89) to land, fresh water, including groundwater, coastal water or air shall be avoided, or mitigated or remedied where avoidance is not practicable.</i>
<i>Policy 95</i>	This policy seeks to manage the discharge of contaminants to land to, among other matters, avoid significant adverse effects on public health and amenity.
<i>Rule 32</i>	The discharge of contaminants into air from the storage or transfer of petroleum products is permitted, subject to standards - including that there is no emission of hazardous air pollutants that may cause adverse effects on human health, ecosystems or property.

<i>Rule 54</i>	This rule provides for detailed site investigations of contaminated land to be undertaken as a permitted activity subject to standards.
<i>Rule 55</i>	This rule permits the discharge of contaminants from contaminated land where a contaminant may enter water, subject to standards.
<i>Rule 56</i>	The investigation of, or discharge of contaminants from contaminated land not permitted under R54 or R55 are a discretionary activity.
<i>Method 16</i>	<i>Wellington Regional Council will work with city and district councils and stakeholders to develop and implement a Wellington regional contaminated land management strategy to identify and assess contaminated land in the region. Where contaminated land is found to discharge contaminants into surface water or groundwater, including stormwater, a site-specific action plan will be developed to remedy the discharge where appropriate.</i>

4.7 Iwi Management Plan(s)

There are no Iwi Management Plans relevant to this topic.

4.8 Relevant plans or strategies

The following plans / strategies are relevant to these topics:

Plan / Strategy	Organisation	Relevant Provisions
Selected Land Use Register	Greater Wellington Regional Council	<p>The Selected Land Use Register (SLUR) is a database administered by the Greater Wellington Regional Council (GWRC) on behalf of the eight city and district councils in the region.</p> <p>The SLUR identifies sites that have, or may have, been used for activities and industries included in the Hazardous Activities and Industries List, 2011 (HAIL), published by the Ministry for the Environment.</p> <p>The SLUR categorises sites as:</p> <ul style="list-style-type: none"> • Verified history of hazardous activity or industry • Unverified history of hazardous activity or industry • Contamination confirmed • Contamination acceptable, managed/remediated • No identified contamination • Entered on register in error <p>The register contains information on contaminated and potentially contaminated sites, and also acts as a proxy for identifying sites that currently have hazardous substances stored or used on site, or where this has occurred historically.</p>

4.9 Other relevant legislation or regulations

The following additional legislative / regulatory requirements are also relevant to hazardous substances:

Legislation / Regulation	Relevant Provisions
Hazardous Substances and New Organisms Act (HSNO) 1996	<p>The purpose of HSNO is to protect the environment, and health and safety of communities, by preventing or managing the adverse effects of hazardous substances and new organisms. All hazardous substances are required to have approval under HSNO. Controls are placed on the substance, based on hazard classifications, to manage the risks of the substance by reducing the likelihood of an unintended occurrence of a hazardous event or exposure, and limiting the adverse effects arising from that event or exposure. When a substance is approved, the Environmental Protection Agency imposes controls based on the class of hazardous substance to ensure any risks to people and the environment are mitigated. These controls apply throughout the life cycle of the substance (manufacture, classification, packaging, transport, storage, use, and disposal).</p> <p>Section 142 of HSNO provides that RMA plans can only include more stringent requirements where these are considered 'necessary' for the purposes of the RMA, otherwise the HSNO requirements prevail.</p>
Health and Safety at Work (Hazardous Substances) Regulations 2017	<p>This regulates hazardous substances that affect human health and safety in the workplace. These regulations manage the risk of hazardous substances and hazardous waste, covering aspects including the storage, transport labelling, packaging, and signage for hazardous substances, and a requirement for emergency response plans and secondary containment for specified classes of hazardous substances.</p>
Health and Safety at Work (Major Hazard Facilities) Regulations 2016	<p>This mandates specific obligations for facilities that store and use large quantities of hazardous substances in order to control potentially catastrophic risks. WorkSafe maintains a list of sites where thresholds for hazardous substances are exceeded which are classified as either Upper or Lower Tier Major Hazard Facilities (MHF). The regulatory framework for these facilities includes requirements for an emergency plan, consultation with local authorities, and a safety assessment encompassing the surrounding area (for Upper Tier MHF's).</p> <p>Within Wellington City Council jurisdiction there is one Lower Tier MHF owned by Mobil Oil New Zealand Limited at 10 Portsmouth Road, Miramar.</p>

The primary legislation and regulatory mechanisms for the management of hazardous substances are the Hazardous Substances and New Organisms Act 1996 (HSNO) and Health and Safety at Work Act 2015 (HSW Act). There are also a number of other relevant legislation and regulations relevant to hazardous substances, including:

- Hazardous Substances (Minimum Degrees of Hazard) Notice 2017

- Hazardous Substances (Classification) Notice 2017
- Hazardous Substances (Labelling) Notice 2017
- Hazardous Substances (Packaging) Notice 2017
- Hazardous Substances (Safety Data Sheet) Notice 2017
- Hazardous Substances (Disposal) Notice 2017
- Hazardous Substances (Hazardous Property Controls) Notice 2017
- Hazardous Substances (Forms and Information) Notice 2017
- Hazardous Substances (Importers and Manufacturers) Notice 2015 and Amendment Notices 2017 and 2018
- Hazardous Substances (Enforcement Officer Qualifications) Notice 2015
- Safe Work Instruments published by WorkSafe - a tool in the Health and Safety at Work Act that can provide supplementary terms or provisions to the Act or other Regulations
- Land Transport Rule 45001: Dangerous Goods 2005 (made under the Land Transport Act 1998)

There is no other legislation or regulations relevant to contaminated land.

5.0 Resource Management Issues Analysis

5.1 Background

The background and key issues relevant to the topics of hazardous substances and contaminated land are outlined in the introduction of this report. The key issue summarised is that the statutory context and regulatory framework for both these topics has changed significantly over the course of the Operative District Plan. The provisions and approach of the Operative District Plan are now considered to be outdated, no longer best practice, and often overlap and duplicate the role and function of national and regional planning frameworks.

As such there is an opportunity for the Proposed District Plan to remove duplication and clarify the role of Council in light of its amended responsibilities.

5.2 Evidence Base - Research, Consultation, Information and Analysis undertaken

The Council has reviewed the operative District Plan, identified associated issues with current resource consent processes, reviewed recent resource consents, commissioned 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 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:

Title	Author	Brief synopsis
Hazardous Substances Issues	Hill Young Cooper Ltd	Identifies issues and options informed by a review of the legislative, statutory, and physical context for

and Options Report, July 2020		the management of hazardous substances, discussions with key stakeholders, a review of WCC resource consents, Quality Planning guidance material, and a review of hazardous substances provisions in other local authorities' District Plans.
Contaminated Land Issues and Options Report, July 2020	Hill Young Cooper Ltd	Identifies issues and options informed by a review of the legislative, statutory, and physical context for the management of contaminated land, discussions with key stakeholders, a review of WCC resource consents, and a review of contaminated land provisions in other local authority's District Plans.

5.2.1 Analysis of Operative District Plan provisions relevant to this topic

For the purposes of this report the key provisions in the Operative Wellington District Plan of relevance to these topics are summarised below.

Topic	Summary of relevant provisions
Hazardous substances	<p>The Operative Wellington District Plan contains objectives, policies, methods, rules, and standards for the management of hazardous substances across various chapters of the District Plan.</p> <p>Plan Change 35 (PC35) on hazardous substances was made operative on 6 July 2006. The purpose of PC35 was to ensure the District Plan remained up to date and consistent with legislation, as a result of changes to HSNO and a revised edition of the Hazardous Facilities Screening Procedure (HFSP). It should be noted, however, that the hazardous substances provisions of the District Plan have not been revised following the RLAA 2017.</p> <p>The District Plan contains a single objective for hazardous substances, albeit across nine Zone/Area Chapters rather than a standalone chapter, which is: <i>“To prevent or mitigate adverse effects of the storage, use, disposal, or transportation of hazardous substances, including waste disposal.”</i></p> <p>This objective is implemented by six policies spread throughout nine Zone/Area Chapters. These policies, whilst somewhat consistent, vary in terms of applicability and phrasing across Zone/Areas.</p> <ul style="list-style-type: none"> • <i>Ensure the environment is safeguarded by managing the storage, use, handling and disposal of hazardous substances.</i> • <i>Require that the storage, use, handling and disposal of hazardous substances are subject to analysis using the Hazardous Facilities Screening Procedure and, where appropriate, the resource consent procedure in order that any potential or actual adverse effects are managed in such a way as to safeguard the environment.</i> • <i>Reduce the potential adverse effects of transporting hazardous substances.</i> • <i>Control the use of land for end point disposal of waste to ensure the environmentally safe disposal of solid and hazardous waste.</i> • <i>To require hazardous facilities to be located away from Hazard Areas.</i>

Topic	Summary of relevant provisions
	<ul style="list-style-type: none"> • <i>Manage the bulk storage of aviation fuel.</i> <p>A key feature of the District Plan’s hazardous substances provisions is the HFSP contained in the General Provisions Chapter. The purpose of the HFSP is to assess the potential cumulative environmental effects presented by hazardous substances in order to determine the consent status of the hazardous facility and whether it is a Permitted Activity.</p> <p>Each applicable Zone/Area Rules Chapter identifies a hazardous substances cumulative effect ratio. Facilities where the calculated cumulative effects ratio is higher than the specific limits or does not otherwise comply with the applicable conditions requires resource consent. The effect ratio varies by Zone/Area and whether the facility is located in a hazard area. The HFSP also outlines a number of exceptions and exemptions where the hazardous substances provisions of the District Plan do not apply, including the refuelling of aircraft, and storage in the Operational Port Area.</p> <p>Difficulty of understanding was identified as key issue by stakeholders, particularly in relation to the HFSP which was acknowledged to be a challenge for council staff, experts, and plan users in general. It was also noted that having the hazardous substances provisions scattered throughout the District Plan created an issue where matters of assessment often went by unbeknownst. A resulting issue is that adequate assessment of hazardous substances may not be undertaken due to confusion caused by the complexity of the HFSP, duplication between District Plan provisions and HSNO, and/or a lack of in-house technical expertise.</p> <p>The effectiveness and relevance of the Operative District Plan is significantly limited primarily due to the fact that the hazardous substances provisions have not been revised following the RLAA 2017. This creates confusion, inefficiencies, and duplication with the national framework for managing hazardous substances.</p>
Contaminated land	<p>The Operative Wellington District Plan contains standalone chapters for contaminated land. Chapter 31 of the District Plan contains one objective and four policies for the management of contaminated land, whilst Chapter 32 contains the contaminated land rules.</p> <p>PC69 was made operative on 9 March 2020 in response to the RMAA 2005 which introduced the explicit function of territorial authorities under to prevent or mitigate any adverse effects of the use, development or subdivision of contaminated land. PC69 introduced a standalone chapter, new and amended definitions in accordance with national legislation, and new permitted and discretionary activity status’. Variations 8, 9, and 10 ensured PC33, PC57, and PC48 were consistent with PC69. It is important to note that PC69 and Variations 8, 9, and 10 were not developed with the NESCS in mind.</p> <p>The contaminated land chapter objective is: <i>“To manage the remediation, use, development and subdivision of contaminated and potentially contaminated land so as to avoid or mitigate the risk of adverse effects on human health and the environment.”</i></p> <p>The supporting policies are:</p>

Topic	Summary of relevant provisions
	<ul style="list-style-type: none"> • Work with the Regional Council and landowners to identify all contaminated and potentially contaminated land in the city and to assist to compile a register of all potential and confirmed contaminated and remediated land in the city. • Minimise and control the adverse effects that may arise from the use, development and subdivision of any contaminated or potentially contaminated land. • Encourage the remediation and/or ongoing management of contaminated or potentially contaminated land as is appropriate for any likely future use of the land. • Ensure that the exposure from the ongoing use of land affected by soil contaminants is managed in a manner that avoids or mitigates the risk of adverse effects on human health and the environment. <p>Most of the Zone/Area Chapters refer to the rules contained Chapter 32, with the exception of the Urban Development Area and Business Area. Only the Airport and Golf Recreation Precinct Area, and Curtis Street Business Area contain additional provisions for the management of contaminated land, beyond those in Chapter 31 and 32.</p> <p>Whilst the Operative District Plan generally addresses the matter of contaminated land in its provisions, they are not fit for purpose or relevant under the current statutory framework as they predate the NESCS. Feedback highlighted ‘annoying duplication’, and additional costs, as a key issue due to having to apply for consent under both the District Plan and NESCS, as well as having to meet regional contaminated land requirements.</p>

5.2.2 Analysis of other District Plan provisions relevant to hazardous substances

Current practice has been considered in respect of this topic, with a review undertaken of the following District Plans. It is noted that some of these plans have been prepared in accordance with the National Planning Standards.

Plan	Local Authority	Description of approach
Porirua Proposed District Plan	<i>Porirua District Council</i>	<ul style="list-style-type: none"> • Contains two objectives, four policies, and no rules. Focus on managing residual risk.
Kapiti Coast District Plan	<i>Kapiti Coast District Council</i>	<ul style="list-style-type: none"> • The district plan does not include any provisions for the use, storage or disposal of hazardous substances, as they were deemed to conflict with HSNO.
New Plymouth Proposed District Plan	<i>New Plymouth District Council</i>	<ul style="list-style-type: none"> • Contains three objectives, nine policies, and twelve rules that manage the location, including setbacks, of significant hazardous facilities and sensitive activities. The context of New Plymouth’s petroleum production and exploration activities is quite different from that of Wellington.

		<ul style="list-style-type: none"> Relies on definition of significant hazardous facility.
	<i>Christchurch City Council</i>	<ul style="list-style-type: none"> Purpose and approach to managing hazardous substances is clearly set out in the introduction - summarised as managing the residual risks associated with the storage, use, or disposal of hazardous substances, including the minimisation of reverse sensitivity effects, and avoidance of sensitive activities located within a defined Risk Management Area. Contains three objectives, five policies, and three rules. The storage, use, or disposal of hazardous substances is a permitted activity in all zones, subject to provisions in other chapters. There are two non-complying activities being new storage or use of hazardous substances with explosive or flammable properties within close proximity to National Grid transmission lines/electricity distribution lines, and any sensitive activities locating within the defined Risk Management Area.
Proposed Selwyn District Plan	<i>Selwyn District Council</i>	<ul style="list-style-type: none"> Contains one objective, four policies, and three rules. The use and/or storage of hazardous substances, excluding a major hazard facility (MHF) is permitted in all zones. A MHF is discretionary in the General Industrial Zone, or otherwise non-complying. A sensitive activity is permitted where not located in an area identified in a quantitative risk assessment of an existing MHF, or otherwise discretionary. Relies on the definition of MHF with the same meaning as the Health and Safety at Work (Major Hazard Facilities) Regulations 2016.

These plans were selected because:

- They have been subject to recent plan changes/reviews that have/has addressed similar issues relating to this topic; and/or
- The associated Councils are of a similar scale to Wellington City and are confronting similar issues relating to this topic; and/or
- The associated Councils are adjacent territorial authorities.

A summary of the key findings follows:

- There has been a move away from managing the use, storage and disposal of hazardous substances to instead managing the location of hazardous facilities, and managing reverse sensitivity effects. This reflects the greater recognition of existing legislation and regulation in second generation plans.

5.2.3 Analysis of other District Plan provisions relevant to contaminated land

Current practice has been considered in respect of this topic, with a review undertaken of the following District Plans. It is noted that some of these plans have been prepared in accordance with the National Planning Standards.

Plan	Local Authority	Description of approach
Proposed Porirua District Plan	Porirua District Council	<ul style="list-style-type: none"> Contains two objectives, three policies, and no rules. The rules section notes: <i>As the NESCS provides a complete framework of rules that deal with assessing and managing contaminated soils, the District Plan does not contain any independent or separate set of rules or assessment matters. The Council is required to enforce the Resource Management (National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health) Regulations 2011 pursuant to section 44A(8) of the RMA.</i>
Proposed New Plymouth District Plan	New Plymouth District Council	<ul style="list-style-type: none"> Contains one objective, two policies, and no rule. The introduction sets out that the responsibility of managing environmental effects sits with Taranaki Regional Council and that the District Council is responsible for applying and enforcing the provisions of the NESCS.
Christchurch District Plan	Christchurch City Council	<ul style="list-style-type: none"> Contains an objective, three policies, two methods, and no rules. Introduction sets out: <i>This chapter seeks to manage the subdivision, use or development of land containing elevated levels of contaminants to protect human health and the environment, and to enable the land to be used in the future. It does this by providing a policy framework for contaminated land in the District, and in particular to enable observance of the Resource Management (National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health) Regulations 2011 (Soil NES).</i>

These plans were selected because:

- They have been subject to recent plan changes/reviews that have/has addressed similar issues relating to this topic; and/or
- The associated Councils are of a similar scale to Wellington City and are confronting similar issues relating to this topic; and/or
- The associated Councils are adjacent territorial authorities.

A summary of the key findings follows:

- There has been a move away from including any rules for the management of contaminated land and instead relying on the NESCS. There is also greater recognition of the role and function of the NESCS and regional council to provide clarity for plan users.

5.2.4 Advice received from Taranaki Whānui and Ngāti Toa Rangatira

Under Clause 4A of Schedule 1 of the RMA local authorities are required to:

- Provide a copy of any draft policy statement or plan to any iwi authority previously consulted under clause 3 of Schedule 1 prior to notification;
- Allow adequate time and opportunity for those iwi authorities to consider the draft and to supply advice; and
- Have particular regard to any advice received before notifying the plan.

As an extension of this s32(4A) requires evaluation reports prepared in relation to a proposed plan to include a summary of:

- All advice received from iwi authorities concerning the proposal; and
- The response to that advice, including any proposed provisions intended to give effect to the advice.

The District Plan Review has included significant engagement with our mana whenua partners - Taranaki Whānui ki te Upoko o te Ika and Ngāti Toa Rangatira. This has included over 100 hui and wānanga attended by Council officers over the last 12 months. This has provided a much greater understanding of mana whenua values and aspirations as they relate to the PDP.

The PDP elevates the consideration of mana whenua values in resource management processes, including:

- A new Tangata Whenua chapter which provides context and clarity about who mana whenua are and what environmental outcomes they are seeking.
- A new Sites and Areas of Significance to Māori chapter that provides greater protection for sites and areas of significance than the current District Plan.
- Integrating mana whenua values across the remainder of the plan where relevant.

This is consistent with both the City Goal of 'Partnership with mana whenua' in the Spatial Plan; and the recently signed Tākai Here (2022), which is the new partnership agreement between the Council and our mana whenua partners, Rūnanga o Toa Rangatira, Taranaki Whānui ki Te Upoko o Te Ika and Te Rūnanganui o Te Āti Awa.

A full copy of the advice received is attached as an addendum to the complete suite of Section 32 reports as Addendum A – Advice received from Taranaki Whānui and Ngāti Toa Rangatira.

No specific advice has been received from Taranaki Whānui/Ngāti Toa Rangatira regarding these topics, other than to identify and confirm cross-references to the Tangata Whenua and Sites and Areas of Significance to Māori chapters.

5.2.5 Consultation undertaken to date

The following is a summary of the primary consultation undertaken in respect of hazardous substances and contaminated land:

Who	What	When	Relevant Issues Raised
<ul style="list-style-type: none"> • CentrePort Wellington • Environmental Protection Authority • Fire and Emergency New Zealand • Greater Wellington Regional Council • LPG Association • Ministry for the Environment Contaminated Land Management Team • Porirua City Council • Representatives from the Oil Industry Environmental Working Group • WasteMINZ • Wellington City Council resource consent team • Wellington International Airport • Worksafe New Zealand 	<p>Discussions with stakeholders and interest groups that helped to identify issues and options.</p>	<p>March/April 2020</p>	<p>Hazardous substances:</p> <ul style="list-style-type: none"> • The Operative District Plan is not effective as it duplicates HSNO and other controls. • HFSP is an outdated tool that should be removed from the District Plan. • Territorial authorities should, for the most part, not get involved in regulating hazardous substances. • The management of Major Hazardous Facilities (MHF) was one exception where the District Plan should consider additional controls. • Concerns around the transit of hazardous substances in the port and railyard area – separation distances and compatibility. <p>Contaminated land:</p> <ul style="list-style-type: none"> • The Operative District Plan is not effective as it duplicates the NESCS. • Need to clarify the roles and responsibilities of Council, GWRC, and the NESCS. • Human health is the primary concern of contaminated land under the NESCS – effects on the wider environment, primarily discharges, are appropriately managed by regional plans. • The Operative District Plan elicits a negative perception of developing contaminated land.

			<ul style="list-style-type: none"> • Opportunity to better support and enable site investigations, site management and remediation, as this would have a community benefit in resolving legacy contamination. • Better flow of information is needed between Council and GWRC – SLUR.
The Fuel Companies (BP Oil New Zealand Limited, Mobil Oil New Zealand Limited, and Z Energy Limited)	Targeted engagement in relation to the Kaiwharawhara Terminal and Miramar Terminal (MHF).	February/ March 2022	<ul style="list-style-type: none"> • Options for a rule framework for MHF. • Appropriateness of zoning of the two terminals. • Reverse sensitivity effects.

A summary of specific feedback on this topic received during consultation on the Draft District Plan is contained in Appendix 1, including how it has been responded to in the Proposed District Plan. Additional detail concerning the wider consultation undertaken in preparing the Proposed District Plan is contained in the companion Section 32 Evaluation Overview Report.

In summary, the key findings arising from the consultation undertaken on this topic are:

- General support for the approach to managing hazardous substances, with clarification and amendments sought as follows:
 - Reference to be made to ‘unacceptable residual risk’.
 - Clarification on how cumulative risk in the Special Purpose Port Zone is addressed.
 - Clarification on provisions, including rules, for Major Hazard Facilities.
- General support for the approach to managing contaminated land.

5.3 Summary of Relevant Resource Management Issues

Based on the research, analysis and consultation outlined above the following issues for hazardous substances have been identified:

Issue	Comment	Response
Issue 1: Effectiveness of existing District Plan provisions	<ul style="list-style-type: none"> • The Operative District Plan’s hazardous substances management regime is not up to date, reflective of best practice, or consistent with the current legislative and regulatory context. 	<ul style="list-style-type: none"> • Clearly set out the legislative and regulatory context for the management of hazardous substances in the introduction, including the role and responsibility of Council.

	<ul style="list-style-type: none"> • Current provisions, particularly the Hazardous Facilities Screening Procedure (HFSP), are technically complex and difficult to interpret and implement. 	<ul style="list-style-type: none"> • Collate hazardous substances provisions clearly and concisely in one chapter (this is in line with the National Planning Standards). • Ensure that the Proposed District Plan does not duplicate HSNO or other controls. • Remove the HFSP and simplify provisions and make them easier to interpret.
Issue 2: Implementation / duplication of HSNO and other existing controls	<ul style="list-style-type: none"> • The hazardous substances provisions of the Operative District Plan have not been revised following the RLAA 2017. • As HSNO is now fully implemented, the HFSP and associated provisions create unnecessary duplication and confusion, subsequently creating additional costs for both the Council and applicants. 	<ul style="list-style-type: none"> • Similar to other second generation District Plans that have/are in the process of being reviewed - rely on HSNO and the HSW Act as the primary regulatory framework for managing hazardous substances. • Only place additional controls on hazardous substances if/where they are necessary to control effects under the RMA that are not otherwise addressed by controls already imposed.
Issue 3: Situations where RMA controls may be necessary	<ul style="list-style-type: none"> • Additional controls should be the exception rather than the norm and only considered where the potential environmental effects are not adequately addressed by other controls already imposed. • Situations where additional controls may be relevant and/or appropriate for Wellington City are: <ul style="list-style-type: none"> ○ Where land uses are incompatible - Major Hazard Facilities (MHF). ○ Where there are sensitive receiving environments. ○ Reverse sensitivity issues. 	<ul style="list-style-type: none"> • Include objectives and policies that seek to manage: <ul style="list-style-type: none"> ○ Unacceptable residual risk to people, communities, and identified sensitive areas. ○ Reverse sensitivity effects. ○ The location of sensitive activities. ○ The locations where activities and facilities, including MHF, establish. ○ Cumulative residual risk. • Include a definition of MHF and rule framework for new and existing MHF. • Rely on zone-based and overlay-based rules controlling land use in different receiving environments i.e. the General Industrial Zone where hazardous facilities, including the Miramar MHF are located, sensitive activities are a non-complying activity.

	<ul style="list-style-type: none"> ○ Cumulative risks of multiple hazardous facilities. ○ Areas prone to natural hazards. ○ Substances outside HSNO. 	
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Based on the research, analysis and consultation outlined above the following issues for contaminated land have been identified:

Issue	Comment	Response
Issue 1: Effectiveness of existing District Plan provisions	<ul style="list-style-type: none"> ● The Operative District Plan's contaminated land provisions are not fit for purpose or relevant with the current legislative and regulatory context, as the provisions predate the NESCS. ● In some instances, the provisions overlap and duplicate the role and function of national and regional planning frameworks. 	<ul style="list-style-type: none"> ● Clearly set out the legislative and regulatory context for the management of contaminated land in the introduction, including the role and responsibility of Council. ● Collate hazardous substances provisions clearly and concisely in one chapter (this is in line with the National Planning Standards). ● Ensure that the Proposed District Plan does not duplicate the NESCS or other controls.
Issue 2: Implementation of the NESCS and role of Greater Wellington Regional Council (GWRC)	<ul style="list-style-type: none"> ● The contaminated land provisions of the Operative District Plan have not been revised following the NESCS. ● Whether it is appropriate and/or necessary for the District Plan to provide protection and controls beyond those in the NESCS and/or contain provisions to control adverse environmental effects. ● The need for greater information sharing between Council and GWRC in relation to the identification of contaminated sites and maintenance of the SLUR. 	<ul style="list-style-type: none"> ● Include objectives and policies to guide decision making when a consent is triggered by the NESCS rules. ● Clearly set out the role of GWRC in controlling discharges of contaminants to land, air, and water as well as effects on the wider environment. ● Similar to other second generation District Plans that have/are in the process of being reviewed – rely on the NESCS and regional plans. ● Recognise the role of GWRC in administering the SLUR and include a policy to work with GWRC to maintain the SLUR.

<p>Issue 3: Perception of contaminated land</p>	<ul style="list-style-type: none"> • The Operative District Plan elicits a negative perception of developing contaminated land. • Need to better support and enable site investigations, and recognise the positive benefits of remediation and/or site management. • 'Status quo' approach to contaminated land is not necessarily the best or most sustainable approach to site management. 	<ul style="list-style-type: none"> • Include objectives and policies that: <ul style="list-style-type: none"> ○ Recognise the positive effects of the remediation and/or site management of contaminated land. ○ Encourage a best practice approach to remediation and/or site management.
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6.0 Evaluation of the Proposal

This section of the report evaluates the objectives of the proposal to determine whether they are the most appropriate means to achieve the purpose of the RMA, as well as the associated policies, rules and standards relative to these objectives. It also assesses the level of detail required for the purposes of this evaluation, including the nature and extent to which the benefits and costs of the proposal have been quantified.

6.1 Scale and Significance

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

The level of detail undertaken for this evaluation has been determined by assessing the scale and significance of the environmental, economic, social and cultural effects anticipated through introducing and implementing the proposed provisions (i.e. objectives, policies and rules) relative to a series of key criteria.

Based on this the scale and significance of anticipated effects associated with this proposal are identified below:

Hazardous substances

Criteria	Scale/Significance			Comment
	Low	Medium	High	
Basis for change		✓		<ul style="list-style-type: none"> • The District Plan needs to implement the National Planning Standards and be reviewed in the context of the Resource Legislation Amendment Act 2017 which removed the explicit function of territorial authorities to control the adverse effects of the storage, use, disposal and

Criteria	Scale/Significance			Comment
	Low	Medium	High	
				<p>transportation of hazardous substances under s31 of the RMA.</p> <ul style="list-style-type: none"> • HSNO and Worksafe legislation and regulations, and regional plans provide a comprehensive regulatory framework. The Operative District Plan duplicates many of these controls resulting in confusion and inefficiencies.
Addresses a resource management issue	✓			<ul style="list-style-type: none"> • The Operative District Plan duplicates controls under other legislation and regulations, resulting in inefficiencies. The Hazardous Facilities Screening Procedure is considered to be outdated and complex. • It is considered best practice to only manage hazardous substances where additional controls beyond compliance with other instruments are necessary. These resource management issues are identified as residual and cumulative risk, reverse sensitivity effects, and the location and risks associated with Major Hazard Facilities.
Degree of shift from the status quo		✓		<ul style="list-style-type: none"> • The hazardous substances provisions are intended to manage only the residual and cumulative risks, and adverse effects on identified areas and their values after statutory rules and controls including any subordinate hazardous substances instruments have been complied with. • This new approach will remove duplication, inefficiencies, and costs.
Who and how many will be affected/ geographical scale of effect/s	x			<ul style="list-style-type: none"> • The adverse effects from the manufacture, use, storage, transportation or disposal of hazardous substances are generally managed under national and regional controls. • The provisions will have a particular impact on Major Hazard Facilities (MHF) and land in proximity to MHF would be restricted from use and development by sensitive activities.

Criteria	Scale/Significance			Comment
	Low	Medium	High	
Degree of impact on or interest from iwi/ Māori	x			<ul style="list-style-type: none"> • There is only a limited degree of impact on or interest from iwi since HSNO and Worksafe legislation and regulations, and regional plans already provide the regulatory framework for hazardous substances. • The provisions seek to integrate with existing legislation and only manage the residual and cumulative risk to people, communities, and identified areas and their values.
Timing and duration of effect/s	x			<ul style="list-style-type: none"> • The requirements of HSNO, Worksafe and regional plans are already operative. • The effects of the hazardous substances provisions will be ongoing from the time any of its provisions become operative.
Type of effect/s	x			<ul style="list-style-type: none"> • The provisions are intended to manage residual and cumulative risk to people, communities, and identified areas and their values, as well as reverse sensitivity effects. • The Major Hazard Facility provisions recognise that there is a greater risk associated with these activities, particularly their location in relation to surrounding sensitive activities and environments, that requires management.
Degree of risk and uncertainty	x			<ul style="list-style-type: none"> • The hazardous substances chapter seeks to manage only those risks generated beyond compliance with HSNO and WorkSafe legislation and regulations, and regional plans. • This approach is consistent with the approach of other second-generation District Plans.

Contaminated land

Criteria	Scale/Significance			Comment
	Low	Medium	High	
Basis for change		✓		<ul style="list-style-type: none"> The District Plan needs to implement the National Planning Standards and give effect to the NESCS.
Addresses a resource management issue	✓			<ul style="list-style-type: none"> There is an opportunity to improve direction and clarity to support implementation of the NESCS and the identification of contaminated and potentially contaminated land. There is also the opportunity to appropriately recognise the benefits of remediation and site management.
Degree of shift from the status quo		✓		<ul style="list-style-type: none"> The contaminated land chapter contains no rules as the NESCS provides a nationally consistent regulatory framework for land use, subdivision and development of contaminated land. The contaminated land chapter intends to provide guidance and clearer direction for decision makers implementing the NESCS, particularly as the NESCS contains no objectives and policies. This new approach will remove duplication, inefficiencies, and costs.
Who and how many will be affected/ geographical scale of effect/s	✓			<ul style="list-style-type: none"> The geographic scale of effects applies to those who are undertaking land use activities, development or subdivision of contaminated or potentially contaminated land.
Degree of impact on or interest from iwi/ Māori	✓			<ul style="list-style-type: none"> There is only a limited degree of impact on or interest from iwi since the NESCS already provides the regulatory framework for contaminated land. The provisions seek to ensure that land containing elevated levels of contaminants is managed to protect mana whenua's significant sites, waterways, natural resources and associated values and relationships, as well as the general health and wellbeing of their people and rohe.

Criteria	Scale/Significance			Comment
	Low	Medium	High	
Timing and duration of effect/s	✓			<ul style="list-style-type: none"> The NESCS is already operative. The effects of the contaminated land provisions will be ongoing from the time any of its provisions become operative.
Type of effect/s	✓			<ul style="list-style-type: none"> The chapter provides clearer direction for decision makers and those implementing the already operative NESCS. The provisions are intended to positively impact development opportunities, health, and social and economic wellbeing of people and communities through identification of contaminated sites and site management.
Degree of risk and uncertainty	✓			<ul style="list-style-type: none"> The contaminated land chapter is consistent with and provides clearer direction for decision makers and those implementing the already operative NESCS. This approach to rely on the NESCS is consistent with the approach of other second-generation District Plans.

Overall, the scale and significance of the proposed provisions are considered to be low for the following reasons:

- The proposed chapters implement the National Planning Standards and provide a clear provision structure.
- The proposed provisions align with, minimise duplication, and clarify the role and function of Council in light of:
 - The Resource Legislation Amendment Act 2017 which removed the function of territorial authorities to control the adverse effects of the storage, use, disposal and transportation of hazardous substances under s31 of the RMA.
 - The wide range of legislation and regulations such as HSNO and HSW Act, as well as regional plans that provide a comprehensive regulatory framework for hazardous substances.
 - The NESCS which provides a nationally consistent regulatory framework for land use, subdivision and development of contaminated land.

Consequently, a lower relative level evaluation of these provisions has been identified as appropriate for the purposes of this report.

6.2 Quantification of Benefits and Costs

Section 32(2)(b) requires that, where practicable, the benefits and costs of a proposal are to be quantified.

Based on the assessment of the scale and significance of the proposed provisions in section 6.1, specific quantification of the benefits and costs in this report is considered neither necessary, beneficial nor practicable in relation to the topics of hazardous substances and contaminated land. Instead, this report identifies more generally where any additional costs or cost may lie.

7.0 Overview of Proposal/s

The proposed provisions relevant to these topics are set out in detail in the ePlan and should be referenced to in conjunction with this evaluation report.

In summary, the proposed hazardous substances provisions include:

- Definitions
 - A set of relevant definitions, including:
 - Hazardous substances
 - Major hazard facility
 - Residual risk
- 2 objectives that address:
 - Protecting people, communities, and identified areas from unacceptable residual risk of the manufacture, use, storage, transportation or disposal of hazardous substances.
 - The need to separate hazardous facilities and sensitive activities, and to protect established facilities from reverse sensitivity effects.
- 3 policies that:
 - Require that residual risk to human health, people and communities, and identified areas and their values from facilities and activities that manufacture, use, store, transport or dispose of hazardous substances is avoided or where avoidance is not possible, adequately mitigated.
 - Require new or expanding activities, including a major hazard facility, to be appropriately located to mitigate individual and cumulative residual risk, and avoid unacceptable residual risk to people and sensitive activities.
 - Avoid the locating of sensitive activities in proximity to a major hazard facility.
- A rule framework that manages land use and building and structure activities as follows:
 - Land use activities
 - Permitted: The manufacture, use, storage, transportation or disposal of hazardous substances
 - Permitted: An existing major hazard facility where there is no change to the risk profile
 - Discretionary: An existing major hazard facility where there is a change to the risk profile or a 10% increase in the volume of hazardous substances
 - Discretionary: A new major hazard facility in the General Industrial Zone
 - Non-Complying: A new major hazard facility in any other zone

In summary, the proposed contaminated land provisions include:

- Definitions
 - A set of relevant definitions, including:
 - Contaminated land
- 2 objectives that address:
 - Protecting human health from exposure to contaminants in soil.
 - Positive benefits of managing and remediating contaminated land.
- 3 policies that:
 - Recognise the benefits of remediation and site management.
 - Require the investigation and identification of contaminated and potentially contaminated land.
 - Set out how risks to human health and the environment from contaminants in land will be minimised through subdivision, change of use or development of contaminated land.

8.0 Evaluation of Proposed Objective/s

8.1 Introduction

Section 32(1)(a) of the RMA requires that the evaluation report examine the extent to which the objectives of the proposal are the most appropriate way to promote the sustainable management of natural and physical resources.

An examination of the proposed objectives along with reasonable alternatives is included below, with the relative extent of their appropriateness based on an assessment against the following criteria:

1. Relevance (i.e. Is the objective related to addressing resource management issues and will it achieve one or more aspects of the purpose and principles of the RMA?)
2. Usefulness (i.e. Will the objective guide decision-making? Does it meet sound principles for writing objectives (i.e. does it clearly state the anticipated outcome?)
3. Reasonableness (i.e. What is the extent of the regulatory impact imposed on individuals, businesses or the wider community? Is it consistent with identified tangata whenua and community outcomes?)
4. Achievability (i.e. Can the objective be achieved with tools and resources available, or likely to be available, to the Council?)

8.2 Evaluation of Objectives

While not specifically required under s32, it is appropriate to also consider alternative objectives to those currently included in the Proposed District Plan, so as to ensure that the proposed objective(s) are the most appropriate to achieve the purpose of the RMA.

For the purposes of this evaluation, the Council has considered two potential objectives:

1. The proposed objective
2. The current most relevant objective - the status quo

8.3 Evaluation of Objective HS-O1

<p>Proposed objective: HS-O1 Protection from unacceptable residual risk People, communities, and identified areas are protected from any unacceptable residual risk of facilities and activities involving the manufacture, use, storage, transportation or disposal of hazardous substances.</p>		
<p>General intent: The intent is that people, communities, and identified areas are protected from unacceptable residual risk of facilities and activities involving the manufacture, use, storage, transportation or disposal of hazardous substances.</p>		
<p>Other potential objectives</p>		
<p>Status quo: Objectives 4.2.11/6.2.9/8.2.6/10.2.7/12.2.14/14.2.8/16.5.3/33.2.12/35.2.10 <i>To prevent or mitigate adverse effects of the storage, use, disposal, or transportation of hazardous substances, including waste disposal.</i></p> <p>The intent of this objective is to manage the risk of adverse effects arising from the storage, use, disposal, or transportation of hazardous substances, including waste disposal.</p>		
	Preferred objective	Status quo
<p>Relevance:</p>		
Addresses a relevant resource management issue	Yes, the purpose of the RMA is to promote the sustainable management of natural and physical resources by managing the use, development and protection of physical resources in a way which enables people and communities to provide for their social, economic and cultural wellbeing. Under section 7(b), (c) and (f) of the RMA, this includes the efficient use and development of natural and physical resources, and the maintenance and enhancement of amenity values and quality of the environment.	Yes, the purpose of the RMA is to promote the sustainable management of natural and physical resources by managing the use, development and protection of physical resources in a way which enables people and communities to provide for their social, economic and cultural wellbeing. Under section 7(b), (c) and (f) of the RMA, this includes the efficient use and development of natural and physical resources, and the maintenance and enhancement of amenity values and quality of the environment.
Assists the Council to undertake its functions under s31 RMA	Yes, consistent with s31(1)(a): <i>the establishment, implementation, and review of objectives, policies, and methods to achieve integrated management of the effects of the use, development, or protection of land and</i>	Yes, consistent with s31(1)(a): <i>the establishment, implementation, and review of objectives, policies, and methods to achieve integrated management of the effects of the use, development, or protection of land and associated natural and physical resources of the district.</i>

	<p><i>associated natural and physical resources of the district.</i></p> <p>Reflects recent amendments to the RMA with respect to Council's responsibilities to control effects under the RMA that are not addressed by controls already imposed by other legislation and regulations.</p>	Does not reflect recent amendments to the RMA with respect to Council's amended responsibilities.
Gives effect to higher level documents	Yes, it implements the RPS which requires that district plans recognise their responsibilities for the control of the use of land for the prevention or mitigation of any adverse effects of the storage, use, disposal or transportation of hazardous substances.	Yes, it implements the RPS which requires that district plans recognise their responsibilities for the control of the use of land for the prevention or mitigation of any adverse effects of the storage, use, disposal or transportation of hazardous substances.
Usefulness:		
Guides decision-making	Yes, requires the management of unacceptable residual risk to people, communities, and identified areas which will guide decision making when considering a resource consent application under s104.	No, does not appropriately guide decision making when considering a resource consent application under s104 in terms of the relationship between Council's function under s31 of the RMA and existing legislation and regulations, including regional plans.
Meets best practice for objectives	Yes, the objective clearly states the anticipated outcome and is drafted in plain English and active language.	No, the objective does not clearly articulate an outcome and is not drafted in active language. The wording 'prevent or mitigate adverse effects' creates a range of end states and is ambiguous on the type and extent of effects to be considered.
Reasonableness:		
Will not impose unjustifiably high costs on the community/parts of the community	The objective does not create unjustifiably high costs on the community, although does have costs for a small part of the community where land uses in certain locations will be restricted, i.e. the compatibility of sensitive activities and MHF, noting that in general, areas where one of these activities locates is not suitable for the other, i.e. the General Industrial Zone is appropriate for MHF but not sensitive activities.	The objective does not create unjustifiably high costs on the community, although does have costs for a small part of the community – primarily hazardous substance facility operators/owners in terms of costs associated with duplication of consenting.

Acceptable level of uncertainty and risk	There is a low level of unintended uncertainty and risk since HSNO, HSW Act, and regional plans are the primary control for managing hazardous substances. The objective provides clear direction on Council's role in managing only unacceptable residual risk.	There is a reasonable level of uncertainty and risk caused by duplication and overlap of the District Plan with existing legislation and regulations that manage hazardous substances.
<i>Achievability:</i>		
Consistent with identified tangata whenua and community outcomes	Yes, existing legislation, regulations, and regional plans are the primary control for managing hazardous substances.	Yes, existing legislation, regulations, and regional plans are the primary control for managing hazardous substances.
Realistically able to be achieved within the Council's powers, skills and resources	Yes, the objective is limited to managing only unacceptable residual risk.	No, extends beyond Council's function and instead duplicates the role function of other agencies in managing hazardous substances, including WorkSafe, the Environmental Protection Agency, and Greater Wellington Regional Council.
Summary		
The preferred objective provides best practice drafting and a clear outcome that aligns with national and regional direction. It is the most relevant, useful, reasonable, and achievable of the two objectives.		

8.4 Evaluation of Objective HS-O2

<p>Proposed objective: HS-O2 Protection of established facilities Sensitive activities are appropriately located to avoid reverse sensitivity effects and unacceptable residual risk from established hazardous facilities.</p>		
<p>General intent: The intent is to protect sensitive activities from unacceptable residual risk and protect established hazardous facilities from reverse sensitivity effects.</p>		
<p>Other potential objectives</p>		
<p>Status quo: Objectives 4.2.11/6.2.9/8.2.6/10.2.7/12.2.14/14.2.8/16.5.3/33.2.12/35.2.10 <i>To prevent or mitigate adverse effects of the storage, use, disposal, or transportation of hazardous substances, including waste disposal.</i></p> <p>The intent of this objective is to manage the risk of adverse effects arising from the storage, use, disposal, or transportation of hazardous substances, including waste disposal.</p>		
	Preferred objective	Status quo
<p>Relevance:</p>		
Addresses a relevant resource management issue	Yes, the purpose of the RMA is to promote the sustainable management of natural and physical resources by managing the use, development and protection of physical resources in a way which enables people and communities to provide for their social, economic and cultural wellbeing. Under section 7(b), (c) and (f) of the RMA, this includes the efficient use and development of natural and physical resources, and the maintenance and enhancement of amenity values and quality of the environment.	Yes, the purpose of the RMA is to promote the sustainable management of natural and physical resources by managing the use, development and protection of physical resources in a way which enables people and communities to provide for their social, economic and cultural wellbeing. Under section 7(b), (c) and (f) of the RMA, this includes the efficient use and development of natural and physical resources, and the maintenance and enhancement of amenity values and quality of the environment.
Assists the Council to undertake its functions under s31 RMA	Yes, consistent with s31(1)(a): <i>the establishment, implementation, and review of objectives, policies, and methods to achieve integrated management of the effects of the use, development, or protection of land and associated natural and physical resources of the district.</i>	Yes, consistent with s31(1)(a): <i>the establishment, implementation, and review of objectives, policies, and methods to achieve integrated management of the effects of the use, development, or protection of land and associated natural and physical resources of the district.</i>

	Reflects recent amendments to the RMA with respect to Council's responsibilities to control effects under the RMA that are not addressed by controls already imposed by other legislation and regulations.	Does not reflect recent amendments to the RMA with respect to Council's amended responsibilities.
Gives effect to higher level documents	Yes, it implements the RPS which requires that district plans recognise their responsibilities for the control of the use of land for the prevention or mitigation of any adverse effects of the storage, use, disposal or transportation of hazardous substances.	Yes, it implements the RPS which requires that district plans recognise their responsibilities for the control of the use of land for the prevention or mitigation of any adverse effects of the storage, use, disposal or transportation of hazardous substances.
<i>Usefulness:</i>		
Guides decision-making	Yes, requires sensitive activities to be appropriately located to avoid unacceptable residual risk and reverse sensitivity effects which will guide decision making when considering a resource consent application under s104.	No, does not appropriately guide decision making when considering a resource consent application under s104 in terms of the relationship between Council's function under s31 of the RMA and existing legislation and regulations, including regional plans.
Meets best practice for objectives	Yes, the objective clearly states the anticipated outcome and is drafted in plain English and active language.	No, the objective does not clearly articulate an outcome and is not drafted in active language. The wording 'prevent or mitigate adverse effects' creates a range of end states and is ambiguous on the type and extent of effects to be considered.
<i>Reasonableness:</i>		
Will not impose unjustifiably high costs on the community/parts of the community	The objective does not create unjustifiably high costs on the community, although does have costs for a small part of the community where land uses in certain locations will be restricted, i.e. the compatibility of sensitive activities and MHF, noting that in general, areas where one of these activities locates is not suitable for the other, i.e. the General Industrial Zone is appropriate for MHF but not sensitive activities.	The objective does not create unjustifiably high costs on the community, although does have costs for a small part of the community – primarily hazardous substance facility operators/owners.
Acceptable level of uncertainty and risk	There is a low level of unintended uncertainty and risk since HSNO, HSW Act, and regional	There is a reasonable level of uncertainty and risk caused by duplication and overlap of the District Plan

	plans are the primary control for managing hazardous substances. The objective provides clear direction on Council's role in managing only unacceptable residual risk and reverse sensitivity.	with existing legislation and regulations that manage hazardous substances.
Achievability:		
Consistent with identified tangata whenua and community outcomes	Yes, existing legislation, regulations, and regional plans are the primary control for managing hazardous substances.	Yes, existing legislation, regulations, and regional plans are the primary control for managing hazardous substances.
Realistically able to be achieved within the Council's powers, skills and resources	Yes, the objective is limited to managing only unacceptable residual risk and reverse sensitivity.	No, extends beyond Council's function and instead duplicates the role function of other agencies in managing hazardous substances, including WorkSafe, the Environmental Protection Agency, and Greater Wellington Regional Council.
Summary		
The preferred objective provides best practice drafting and a clear outcome that aligns with national and regional direction. It is the most relevant, useful, reasonable, and achievable of the two objectives.		

8.5 Evaluation of Objective CL-O1

Proposed objective: CL-O1 Protection of human health from contaminants Contaminated land is identified and managed in order that it remains acceptable and safe for human health and its intended use.		
General intent: The intent is to protect human health from risk of contaminants.		
Other potential objectives		
Status quo: Objective 31.2.1 <i>To manage the remediation, use, development and subdivision of contaminated and potentially contaminated land so as to avoid or mitigate the risk of adverse effects on human health and the environment.</i> The intent of this objective is to manage the risk of adverse effects on human health and the environment arising from the remediation, use, development and subdivision of contaminated and potentially contaminated land.		
	Preferred objective	Status quo
Relevance:		
Addresses a relevant resource management issue	Yes, the relevant resource management issue being to support the implementation of the NESCS.	Yes, the relevant resource management issue being to support the implementation of the NESCS, noting that this objective was developed prior to the NESCS.
Assists the Council to undertake its functions under s31 RMA	Yes, consistent with s31(1)(b)(iia): <i>the prevention or mitigation of any adverse effects of the development, subdivision, or use of contaminated land.</i>	Yes, consistent with s31(1)(b)(iia): <i>the prevention or mitigation of any adverse effects of the development, subdivision, or use of contaminated land.</i>
Gives effect to higher level documents	Yes, it implements Policy 34 of the RPS which requires district plans to include policies and rules that control activities on contaminated land so that those activities are not adversely affected by the contamination. The objective identifies that the risks to human health is a territorial authority responsibility and does not confuse or duplicate the responsibilities of the Regional Council regarding contaminated land matters.	Yes, it implements Policy 34 of the RPS which requires district plans to include policies and rules that control activities on contaminated land so that those activities are not adversely affected by the contamination. The NESCS provides the rules framework. However, the directive of the NESCS is to manage risk to protect human health, not the wider environment.
Usefulness:		

Guides decision-making	Yes, it provides guidance for decision makers implementing the NESCS - when considering a resource consent application under s104.	Yes, it provides guidance for decision makers implementing the NESCS - when considering a resource consent application under s104. However, the directive of the NESCS is to manage risk to protect human health, not the wider environment.
Meets best practice for objectives	Yes, the objective clearly states the anticipated outcome and is drafted in plain English and active language.	No, the objective does not clearly articulate an outcome and is not drafted in active language.
<i>Reasonableness:</i>		
Will not impose unjustifiably high costs on the community/parts of the community	The objective does not create costs on the community. The NESCS is already operative and the objective will not add to costs associated with the regulations.	The objective does not create unjustifiably high costs on the community, although the duplication/uncertainty does have costs for a small part of the community.
Acceptable level of uncertainty and risk	There is a low level of unintended uncertainty and risk since the NESCS provides an existing regulatory framework.	There is a low level of unintended uncertainty and risk since the NESCS provides an existing regulatory framework.
<i>Achievability:</i>		
Consistent with identified tangata whenua and community outcomes	Yes, is consistent with the existing regulatory framework provided by the NESCS.	Yes, is consistent with the existing regulatory framework provided by the NESCS.
Realistically able to be achieved within the Council's powers, skills and resources	Yes, the NESCS provides an existing regulatory framework implemented by Wellington City Council.	Yes, the NESCS provides an existing regulatory framework implemented by Wellington City Council.
Summary		
The preferred objective provides best practice drafting and a clear outcome that aligns with the directive of the NESCS and gives better effect to regional direction. It is the most relevant, useful, reasonable, and achievable of the two objectives.		

8.6 Evaluation of Objective CL-O2

<p>Proposed objective: CL-O2 Benefit of remediating contaminated land Remediation and/or site management of contaminated land contributes to the health and wellbeing of communities and increases development opportunity for new use and development.</p>		
<p>General intent: The intent is that the benefits of remediation and/or site management of contaminated land are recognised.</p>		
<p>Other potential objectives</p>		
<p>Status quo: Objective 31.2.1 <i>To manage the remediation, use, development and subdivision of contaminated and potentially contaminated land so as to avoid or mitigate the risk of adverse effects on human health and the environment.</i></p> <p>The intent of this objective is to manage the risk of adverse effects on human health and the environment arising from the remediation, use, development and subdivision of contaminated and potentially contaminated land.</p>		
	Preferred objective	Status quo
<p>Relevance:</p>		
Addresses a relevant resource management issue	Yes, the purpose of the RMA is to promote the sustainable management of natural and physical resources by managing the use, development and protection of physical resources in a way which enables people and communities to provide for their social, economic and cultural wellbeing. Under section 7(b) and (f) of the RMA, this includes the efficient use and development of natural and physical resources and the maintenance and enhancement of the quality of the environment.	Yes, the purpose of the RMA is to promote the sustainable management of natural and physical resources by managing the use, development and protection of physical resources in a way which enables people and communities to provide for their social, economic and cultural wellbeing. Under section 7(b) and (f) of the RMA, this includes the efficient use and development of natural and physical resources and the maintenance and enhancement of the quality of the environment.
Assists the Council to undertake its functions under s31 RMA	Yes, in conjunction with CL-O1 it is consistent with s31(1)(b)(iia): <i>the prevention or mitigation of any adverse effects of the development, subdivision, or use of contaminated land.</i>	Yes, consistent with s31(1)(b)(iia): <i>the prevention or mitigation of any adverse effects of the development, subdivision, or use of contaminated land.</i>
Gives effect to higher level documents	Yes, the National Policy Statement on Urban Development Capacity requires there to be a feasible housing and business development	No, while the objective includes reference to remediation, it does not identify the benefits that arise

	capacity to meet short term and medium term needs. The remediation and/or site management of contaminated land increases the availability of land, and enables future use of the land and development opportunities for residential and commercial activities.	from the remediation of contaminated land in terms of development opportunity.
Usefulness:		
Guides decision-making	Yes, the remediation and/or site management of contaminated land is a positive effect for decision makers to assess when considering a resource consent application under s104.	No, while the objective includes reference to remediation, it does not identify the benefits that arise from the remediation of contaminated land in terms of development opportunity.
Meets best practice for objectives	Yes, the objective clearly states the anticipated outcome and is drafted in plain English and active language.	No, the objective does not clearly articulate an outcome and is not drafted in active language.
Reasonableness:		
Will not impose unjustifiably high costs on the community/parts of the community	The objective does not create costs on the community. The NESCS is already operative and the objective will not add to costs associated with the regulations.	The objective does not create unjustifiably high costs on the community, although the duplication/uncertainty does have costs for a small part of the community.
Acceptable level of uncertainty and risk	There is a low level of unintended uncertainty and risk since the NESCS provides an existing regulatory framework. The objective provides clear direction on the anticipated outcome.	There is a low level of unintended uncertainty and risk since the NESCS provides an existing regulatory framework.
Achievability:		
Consistent with identified tangata whenua and community outcomes	Yes, is consistent with the existing regulatory framework provided by the NESCS.	Yes, is consistent with the existing regulatory framework provided by the NESCS.
Realistically able to be achieved within the Council's powers, skills and resources	Yes, the NESCS provides an existing regulatory framework implemented by Wellington City Council.	Yes, the NESCS provides an existing regulatory framework implemented by Wellington City Council.
Summary		
The preferred objective provides best practice drafting and a clear outcome that aligns with national and regional direction. It is the most relevant, useful, reasonable, and achievable of the two objectives.		

9.0 Evaluation of Reasonably Practicable Options and Associated Provisions

9.1 Introduction

Under s32(1)(b) of the RMA, reasonably practicable options to achieve the objective/s associated with this proposal need to be identified and examined. This section of the report evaluates the proposed policies, as they relate to the associated objectives.

The technical and consultation input used to inform this process is outlined in section 5 of this report.

9.2 Evaluation method

For each potential approach an evaluation has been undertaken relating to the costs, benefits and the certainty and sufficiency of information (as informed by section 5 of this report) in order to determine the effectiveness and efficiency of the approach, and whether it is the most appropriate way to achieve the relevant objective(s).

This evaluation is contained in the following sections.

9.3 Provisions to achieve Objectives HS-O1 and HS-O2

For the purpose of this evaluation, the Council has considered the following potential options:

1. The proposed provisions
2. The status quo

Objectives: HS-O1 Protection from unacceptable residual risk People, communities, and identified areas are protected from any unacceptable residual risk of facilities and activities involving the manufacture, use, storage, transportation or disposal of hazardous substances.			
HS-O2 Protection of established facilities Sensitive activities are appropriately located to avoid reverse sensitivity effects and unacceptable residual risk from established hazardous facilities.			
Option 1: Proposed approach (recommended)	Costs	Benefits	Risk of Acting / Not Acting if there is uncertain or insufficient information about the subject matter of the provisions
<p>Policies:</p> <p>HS-O1 requires that facilities and activities involving the manufacture, use, storage, transportation or disposal of hazardous substances avoid locating in identified areas unless the residual risk to human health, people and communities, or the identified areas and their values is avoided, or where avoidance is not possible, unacceptable risk is adequately managed.</p> <p>HS-P2 requires that activities, including major hazard facilities are appropriately located to:</p> <ul style="list-style-type: none"> mitigate individual and cumulative residual risk; and avoid unacceptable residual risk to people and sensitive activities. <p>HS-P3 requires that sensitive activities avoid locating in proximity to a major hazard facility.</p> <p>Rules:</p> <p>The manufacture, use, storage, transportation or disposal of hazardous substances is permitted.</p> <p>Existing major hazard facilities where there is no change to the risk profile are</p>	<p>Environmental</p> <p>Direct effects:</p> <ul style="list-style-type: none"> The provisions are restricted to managing only the residual and cumulative risk to people, communities and identified areas, and not to the wider environment. However, effects on the wider environment from the discharge of contaminants to land, water and air are managed by regional plans, including the Proposed Natural Resources Plan. <p>Indirect effects:</p> <p>No indirect costs identified.</p> <p>Economic</p> <p>Direct effects:</p> <ul style="list-style-type: none"> Costs to owners/operators of major hazard facilities to prepare a Quantitative Risk Assessment. Costs to Council to process resource consent applications, noting that there are existing costs associated with provisions of the Operative District Plan. Consent costs and time are due to the requirement to address residual risk on people, communities and identified areas, and the s88 information requirement for major hazard facilities. <p>Indirect effects:</p> <ul style="list-style-type: none"> Limits the location where sensitive activities, and activities and facilities involving the manufacture, use, storage, transportation or disposal of hazardous substances can establish. <p>Social</p> <p>No direct or indirect costs identified.</p> <p>Cultural</p> <p>No direct or indirect costs identified.</p>	<p>Environmental</p> <p>Direct effects:</p> <ul style="list-style-type: none"> The provisions manage the residual and cumulative risk to people, communities and identified areas. This approach complements existing legislation, regulations, and guidelines that manage hazardous substances. Identified areas include a Natural Hazard Area, Significant Natural Area, Outstanding Natural Feature, Outstanding Natural Landscape, Special Amenity Landscape, and Site of Significance to Māori. <p>Indirect effects:</p> <ul style="list-style-type: none"> The management of unacceptable residual and cumulative risk also contributes to improved environmental outcomes for the surrounding area. <p>Economic</p> <p>Direct effects:</p> <ul style="list-style-type: none"> Enables activities and facilities involving the manufacture, use, storage, transportation or disposal of hazardous substances, including existing major hazard facilities to continue to operate efficiently and effectively. There will be reduced consent costs and time for Council and applicants due to clearer policy direction, and the removal of duplication with existing legislation and regulations including HSNO, subordinate instruments, industry guidelines, and regional plans that provide a comprehensive regulatory framework for managing hazardous substances. <p>Indirect effects:</p> <ul style="list-style-type: none"> Reduces potential for reverse sensitivity effects that may constrain the development, operation, upgrading or maintenance of an existing major hazard facility. Zone-based provisions support the availability of areas, such as the GIZ, for major hazard facilities, and prevent 	<p>It is considered that there is certain and sufficient information on which to base the proposed policies and methods as:</p> <ul style="list-style-type: none"> The proposed approach does not represent a significant change from the status quo. Instead, the proposed approach provides greater direction, clarity and certainty than the status quo in terms of managing only the residual risk and cumulative risk to the health and wellbeing of people and communities, and adverse effects on identified areas and their values after statutory rules and controls including any subordinate instruments hazardous substances instruments that are in place are complied with. <p>The risk of not acting is that hazardous facilities establish and operate in a manner which may result in unacceptable residual risk to people, communities, and identified areas. In addition, the Proposed District Plan would continue to duplicate other regulatory controls, resulting in inefficiencies.</p>

<p>permitted, or otherwise discretionary.</p> <p>New major hazard facilities are discretionary in the GIZ, and non-complying in all other zones.</p> <p>There is also a reliance on zone and overlay-based rules to implement the objectives and policies of this chapter. For example, sensitive activities are non-complying in the GIZ.</p> <p>Other Methods:</p> <p>Both discretionary rules have a s88 information requirement for applications to provide a Quantitative Risk Assessment for the site.</p> <p>There is a wide range of legislation and regulations including HSNO, subordinate instruments, industry guidelines, and regional plans that provide a comprehensive regulatory framework for managing hazardous substances.</p>		<p>incompatible activities (which may cause reverse sensitivity effects).</p> <p>Social</p> <p>Direct effects:</p> <ul style="list-style-type: none"> • Ensures that people, communities, and identified areas are protected from unacceptable residual and cumulative risk. • Provides certainty to owners/operators of facilities, businesses, neighbours, Council, and the wider community about the role of Council, and other legislation and subordinate instruments managing hazardous facilities. <p>Indirect effects:</p> <ul style="list-style-type: none"> • Simplified regulation of hazardous substances will increase transparency and be more user friendly for council staff, experts, applicants, and plan users in general. <p>Cultural</p> <p>Direct effects:</p> <ul style="list-style-type: none"> • Provisions ensure residual risk to sites of significance to Māori and their values are avoided, or where avoidance is not possible, unacceptable risk is adequately mitigated. <p>Indirect effects:</p> <ul style="list-style-type: none"> • No indirect benefits identified. 	
<p>Effectiveness and efficiency</p>	<p>Effectiveness</p> <p>The proposed provisions are the most effective method of achieving the objectives as they best ensure people, communities, and identified areas are protected from unacceptable residual risk. They also protect hazardous activities and facilities, including MHF, from reverse sensitivity effects and cumulative residual risk, and likewise protect sensitive activities from exposure to unacceptable residual risk. In addition, the proposed provisions are clear and concise, without unnecessary duplication of existing legislative and regulatory controls.</p>	<p>Efficiency</p> <p>The proposed provisions are the most efficient at achieving the objectives, particularly as they only address matters necessary to control effects under the RMA that are not otherwise addressed by controls already imposed. This approach achieves the highest net benefit to the community as it avoids duplication and associated costs, while ensuring the potential impact of Major Hazard Facilities that are not managed through other instruments, are considered through a resource consent process, where appropriate. The provisions provide a simpler and clearer regulatory framework than the status quo, and identify the role and function of non-RMA regulations and regional plans that complement the Proposed District Plan in managing reverse sensitivity effects, cumulative risk, and unacceptable residual risk to people, communities, and identified areas.</p>	
<p>Overall evaluation</p>	<p>The proposed approach is the most appropriate approach to achieve the objectives as it provides clarity on Council's responsibility and recognises the role of existing legislation and regulations including HSNO, subordinate instruments, industry guidelines, and regional plans, while ensuring that unacceptable residual and cumulative risk, reverse sensitivity, and MHF are managed.</p>		

Option 2: Status Quo	Costs	Benefits	Risk of Acting / Not Acting if there is uncertain or insufficient information about the subject matter of the provisions
<p><u>Policies:</u></p> <p>Policies across the various zone chapters include:</p> <ul style="list-style-type: none"> Require that the storage, use, handling and disposal of hazardous substances are subject to analysis using the Hazardous Facilities Screening Procedure and, where appropriate, the resource consent procedure in order that any potential or actual adverse effects are managed in such a way as to safeguard the environment. Reduce the potential adverse effects of transporting hazardous substances. Control the use of land for end point disposal of waste to ensure the environmentally safe disposal of solid and hazardous waste. To require hazardous facilities to be located away from Hazard Areas. Manage the bulk storage of aviation fuel. <p><u>Rules:</u></p> <p>Rules are based on the Hazardous Facility Screening Procedure (HFSP) which sets zone-based thresholds for the</p>	<p><i>Environmental</i></p> <p>Direct effects:</p> <ul style="list-style-type: none"> The provisions fail to manage residual risk and instead largely duplicate controls under other regulations and regional plans. The provisions fail to protect sites with high natural environmental values. The provisions primarily manage hazardous substances by controlling the amount of hazardous substances used and stored at a site. <p>Indirect effects:</p> <ul style="list-style-type: none"> Provisions are technically complex and scattered throughout the District Plan, resulting in inadequate assessment and the potential for poor environmental outcomes. <p><i>Economic</i></p> <p>Direct effects:</p> <ul style="list-style-type: none"> Creates unnecessary costs and inefficiencies for Council and applicants in terms of consenting requirements that duplicate controls under other regulations and regional plans. The provisions fail to address reverse sensitivity from incompatible land uses. Costs in terms of technical expertise required to interpret and implement the HSFP. <p>Indirect effects:</p> <p>No indirect costs have been identified.</p> <p><i>Social</i></p> <p>Direct effects:</p> <ul style="list-style-type: none"> Fails to respond to changes in best practice and regulatory changes since the Operative District Plan. <p>Indirect effects:</p> <ul style="list-style-type: none"> Confusing and technically complex for Council staff, applicants and the general public to interpret and implement - inadvertently or purposefully neglected assessment/consideration of hazardous substances provisions, resulting in inefficient plan administration. 	<p><i>Environmental</i></p> <p>No direct or indirect benefits have been identified.</p> <p><i>Economic</i></p> <p>No direct or indirect benefits have been identified.</p> <p><i>Social</i></p> <p>No direct or indirect benefits have been identified.</p> <p><i>Cultural</i></p> <p>No direct or indirect benefits have been identified.</p>	

<p>use, storage or handling of hazardous substances. For those activities which are not specifically exempted, the cumulative effects ratio calculated using the HFSP determines whether or not the activity is permitted, subject to applicable standards, or otherwise becomes discretionary.</p> <p>Other Methods:</p> <p>There is a wide range of legislation and regulations including HSNO, subordinate instruments, industry guidelines, and regional plans that provide a comprehensive regulatory framework for managing hazardous substances.</p>	<p>Cultural</p> <p>Direct effects:</p> <ul style="list-style-type: none"> The provisions fail to protect sites of significance to Māori and cultural values. <p>Indirect effects:</p> <p>No indirect costs have been identified.</p>		
<p>Effectiveness and efficiency</p>	<p>Effectiveness</p> <p>The provisions are not the most effective method of achieving the objectives as they fail to protect hazardous activities and facilities, including MHF, from reverse sensitivity effects, and protect sensitive activities from exposure to unacceptable residual risk. The provisions are not clear and concise, and instead duplicate existing legislative and regulatory controls.</p>	<p>Efficiency</p> <p>The provisions will achieve the objectives at the highest cost to the community. They are the least efficient approach as they duplicate controls under other regulations such as HSNO, HSW Act, and regional plans, and are technically complex to interpret and implement.</p>	
<p>Overall evaluation</p>	<p>This approach is not appropriate because it duplicates existing legislative and regulatory controls, is inconsistent with Council's amended responsibilities following the RLAA 2017, and relies on the outdated technically complex HFSP that is no longer considered to be best practice.</p>		

9.4 Provisions to achieve Objectives CL-O1 and CL-O2

For the purpose of this evaluation, the Council has considered the following potential options:

1. The proposed provisions
2. The status quo

Objectives: CL-O1 Protection of human health from contaminants Contaminated land is identified and managed in order that it remains acceptable and safe for human health and its intended use. CL-O2 Benefit of remediating contaminated land Remediation and/or site management of contaminated land contributes to the health and wellbeing of communities and increases development opportunity for new use and development.			
Option 1: Proposed approach (recommended)	Costs	Benefits	Risk of Acting / Not Acting if there is uncertain or insufficient information about the subject matter of the provisions
<p>Policies:</p> <p>CL-P1 recognises and provides for a range of benefits to people and communities, including development opportunities, as a result of remediation and/or site management of contaminated land.</p> <p>CL-P2 and CL-P3 require that contaminated land is identified and made safe for its intended use prior to subdivision, change of use or development. Both these policies seek to protect human health by identifying and managing contaminated land.</p> <p>CL-P2 requires the identification of contaminated land. This is achieved via maintenance of the SLUR in conjunction with GWRC and implementation of the NESCS which enables site investigations.</p> <p>CL-P3 encourages a best practice approach to site management to minimise risk to human health and protect mana whenua's significant sites, waterways, natural resources and associated</p>	<p>Environmental</p> <p>Direct effects:</p> <ul style="list-style-type: none"> The provisions are restricted to managing risk to human health, and not to the wider environment or amenity values. However, effects on the wider environment from the discharge of contaminants to land, water and air are managed by regional plans, including the Proposed Natural Resources Plan. <p>Indirect effects:</p> <ul style="list-style-type: none"> The provisions only achieve a reduction in risk from contaminated land when that land is subdivided, used or developed. <p>Economic</p> <p>Direct effects:</p> <ul style="list-style-type: none"> Costs to property owners and developers to investigate contaminated or potentially contaminated land and undertake remediation and/or site management. Costs to applicants to prepare resource consent applications under the NESCS, noting that this is an existing requirement. Costs to Council to process resource consent applications, noting that there are existing costs associated with the administration of the NESCS. <p>Indirect effects:</p>	<p>Environmental</p> <p>Direct effects:</p> <ul style="list-style-type: none"> The provisions will result in risk to human health from contaminated land being minimised when land is subdivided, used or developed. <p>Indirect effects:</p> <ul style="list-style-type: none"> The remediation and/or site management of contaminated land to protect human health also contributes to improved environmental outcomes for the surrounding area. <p>Economic</p> <p>Direct effects:</p> <ul style="list-style-type: none"> Remediation and/or site management enables development opportunity and economic activity from land made available for new use and development - including for residential and commercial activities. There will be reduced consent costs and time for Council and applicants due to the clearer policy direction for addressing contaminated land and reliance on, rather than duplication of the NESCS framework. <p>Indirect effects:</p> <ul style="list-style-type: none"> The provisions support the positive perception of contaminated land as an opportunity rather than barrier to development. Remediation and/or site management improves the reputation of areas with a historical legacy of contaminated land. 	<p>It is considered that there is certain and sufficient information on which to base the proposed policies and methods as:</p> <ul style="list-style-type: none"> The proposed approach does not represent a significant change from the status quo. Instead, the proposed approach provides greater direction, clarity and certainty than the status quo in terms of managing risk to human health from the subdivision, change of use and development of contaminated land, as already provided for under the NESCS. <p>The risk of not acting is that the Proposed District Plan would continue to duplicate NESCS provisions, resulting in inefficiencies.</p>

<p>values and relationships, as well as the general health and wellbeing of their people and rohe. This is achieved by the implementation of the NESCS which provides for management methods including remediation, containment, and/or the disposal of contaminated soil.</p> <p>Rules:</p> <p>There are no rules in the District Plan. Instead, reliance is placed on the NESCS. Under section 44A of the RMA, a District Plan must not contain rules that duplicate or conflict with a provision in a national environmental standard.</p> <p>Other Methods:</p> <p>The NESCS provides a complete set of regulations in relation to subdivision, land-use change, soil disturbance, soil sampling, and removing/replacing fuel storage systems. It includes rules, standards, and matters of discretion. The District Plan provides objective and policy guidance for the assessment of resource consent applications required under the NESCS.</p>	<ul style="list-style-type: none"> There are costs associated with site investigations, remediation, and/or site management that can make contaminated land uneconomical to develop. <p>Social</p> <p>No direct costs have been identified.</p> <p>Indirect effects:</p> <ul style="list-style-type: none"> Requires communication and information/knowledge sharing between Greater Wellington Regional Council and Wellington City Council in terms of maintaining the SLUR. <p>Cultural</p> <p>No direct or indirect costs have been identified.</p>	<p>Social</p> <p>Direct effects:</p> <ul style="list-style-type: none"> The identification and management of contaminated land benefits the health and wellbeing of people and communities. <p>Indirect effects:</p> <ul style="list-style-type: none"> The provisions provide a positive assessment matter for decision-makers to consider. Simplified regulation of contaminated land will increase transparency and be more user friendly for council staff, experts, applicants, and plan users in general. The provisions change the social perception of contaminated land through greater recognition of the social and economic benefits to people and communities. Ensures that land is suited for its intended use and becomes available for people to meet their social and economic needs. Improved flow of information and knowledge sharing between Greater Wellington Regional Council and Wellington City Council in terms of maintaining the SLUR. <p>Cultural</p> <p>Direct effects:</p> <ul style="list-style-type: none"> The remediation and/or site management of contaminated land to protect human health also ensures that mana whenua's significant sites, waterways, natural resources and relationships, as well as the general health and wellbeing of their people and rohe are protected. <p>No indirect benefits have been identified.</p>	
<p>Effectiveness and efficiency</p>	<p>Effectiveness</p> <p>The proposed provisions are the most effective method of achieving the objectives as they best ensure that contaminated land is made safe for human health and its intended use, and recognise the benefits of remediation and site management. In addition, the proposed provisions support the implementation of the NESCS, and provide an assessment framework for Council to use in processing consent applications triggered by NESCS rules.</p>	<p>Efficiency</p> <p>The proposed provisions are the most efficient at achieving the objectives, particularly as they minimise the risk to human health from the subdivision, change of use, or development of contaminated land, without duplicating the provisions of the NESCS. This approach achieves the highest net benefit to the community as it avoids associated costs and confusion. The provisions provide a simpler and clearer regulatory framework than the status quo, and identify the role and function of the NESCS and Greater Wellington Regional Council in managing contaminated land.</p>	

Overall evaluation	The proposed approach is the most appropriate approach to achieve the objectives as it provides clarity on Council's responsibility and provides direction for the implementation of the NESCS. The provisions also recognise the positive effects of the remediation and/or site management of contaminated land.		
Option 2: Status Quo	Costs	Benefits	Risk of Acting / Not Acting if there is uncertain or insufficient information about the subject matter of the provisions
<p>Policies:</p> <p>31.2.1.1 – 31.2.1.3 seek to identify contaminated land and minimise and control the adverse effects of the use, development and subdivision of contaminated land. There is also policy directive encouraging the remediation and/or ongoing management of contaminated land as appropriate for future use.</p> <p>13.2.1.4 seeks that exposure from the ongoing use of land affected by soil contaminants is managed to avoid or mitigate the risk of adverse effects on human health and the environment.</p> <p>Rules:</p> <p>Rules for subsurface investigations, removal or underground petroleum storage systems, and the use development or subdivision of contaminated land, with associated assessment criteria.</p> <p>Other Methods:</p> <p>The NESCS provides a complete set of regulations in relation to subdivision, land-use change, soil disturbance, soil sampling, and removing/replacing fuel storage systems. It includes rules, standards, and matters of discretion.</p>	<p>Environmental</p> <p>Direct effects:</p> <p>No direct or indirect costs identified.</p> <p>Economic</p> <p>Direct effects:</p> <ul style="list-style-type: none"> Consenting costs for both Council and applicants due to duplication of consent requirements under other regulations and lack of direction on Council's role administering the NESCS. Inefficiencies in how the NESCS planning controls are applied by practitioners and councils across the country creates confusion for developers, increases costs and delays, and results in consents being obtained when not strictly required by the NESCS. <p>Indirect effects:</p> <ul style="list-style-type: none"> Developers are put off from owning or developing contaminated sites due to associated processes and costs. This results in un/under-developed sites that continue to exist without remediation or site management. <p>Social</p> <p>No direct costs identified.</p> <p>Indirect effects:</p> <ul style="list-style-type: none"> Stakeholders considered that the Operative District Plan elicits a negative perception of developing contaminated land rather than encouraging remediation and development. <p>Cultural</p> <p>Direct effects:</p> <ul style="list-style-type: none"> The provisions fail to protect sites of significance to Māori and cultural values. <p>No indirect costs have been identified.</p>	<p>Environmental</p> <p>No direct or indirect benefits have been identified.</p> <p>Economic</p> <p>No direct or indirect benefits have been identified.</p> <p>Social</p> <p>No direct or indirect benefits have been identified.</p> <p>Cultural</p> <p>No direct or indirect benefits have been identified.</p>	

<u>Effectiveness and efficiency</u>	<p><i>Effectiveness</i></p> <p>The provisions are not the most effective method of achieving the objectives as they fail to recognise the benefits of remediation and site management. The provisions do not provide clear direction on the role and responsibility of Council, and instead duplicate the NESCS.</p>		<p><i>Efficiency</i></p> <p>The provisions will achieve the objectives at the highest cost to the community. They are the least efficient approach as they duplicate controls under the NESCS.</p>
<u>Overall evaluation</u>	<p>The status quo is not the most appropriate to achieve the objectives as it does not clearly articulate Council's responsibility or provide direction for the implementation of the NESCS.</p>		

10.0 Conclusion

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 it:

- Provides a best practice approach to managing contaminated land and hazardous substances by only seeking to control matters not otherwise addressed by other legislation and regulation including regional plans;
- Provides clarity and direction on the role and function of Council as well as the role and function of other agencies in administering other legislative and regulatory controls;
- Consolidates and simplifies provisions into topic specific chapters, consistent with the requirements of the National Planning Standards; and
- Gives effect to higher order requirements in the RPS; and
- Is in accordance with and not duplicative of the NESCS.

Appendix 1: Feedback on Draft District Plan 2021

Hazardous substances:

Who	Feedback Received	Response
CentrePort Wellington	Clarification is needed as to how HS-P3 will be applied as there are no rules associated with this policy.	<p>Changes made for the following reasons:</p> <p>While it is acknowledged that cumulative risk associated with the transit/storage of hazardous substances in the port and railyard area does require better management, the Health and Safety at Work Regulations do already regulate hazardous substances transit depots. As such, any rule in the District Plan would be duplicative of existing requirements and not appropriate.</p> <p>HS-P3 – cumulative risk in the Port Operational Area is deleted, and instead cumulative residual risk in more broadly addressed in HS-P2.</p>
Fire and Emergency New Zealand	Support definition of ‘Hazardous Substances’ and ‘Official Sign’.	No changes requested.
The Fuel Companies (BP Oil New Zealand Limited, Mobil Oil New Zealand Limited, and Z Energy Limited)	<p>Seek amendment to HS-O1 to protect from unacceptable residual risk to avoid a potential situation whereby the objective may be interpreted as requiring avoidance of any residual risk. This would be consistent with HS-O2.</p> <p>Suggested amendment:</p> <p>Protection from <u>unacceptable</u> residual risk People, communities, and identified areas are protected from any <u>unacceptable</u> residual risk of facilities and activities involving the</p>	<p>Changes made to HS-O1:</p> <p>Protection from <u>unacceptable</u> residual risk</p> <p>People, communities, and identified areas are protected from any <u>unacceptable</u> residual risk of facilities and activities involving the manufacture, use, storage, transportation or disposal of hazardous substances.</p> <p>Reason:</p>

	<p>manufacture, use, storage, transportation or disposal of hazardous substances.</p>	<p>Agree with reasons set out by the Fuel Companies.</p>
	<p>Given the focus on hazardous substances and the nature of sites in the district which may have off site residual risk (including regionally significant infrastructure as defined in the RPS), the Fuel Companies consider it is important that the objective directs avoidance and that underlying provisions relate not just to establishment of sensitive activities but also to intensification of the same.</p> <p>Suggested amendment:</p> <p>HS-O2 Protection of established facilities</p> <p>Sensitive activities are established in appropriate locations to minimise <u>avoid</u> reverse sensitivity effects and unacceptable residual risk from established hazardous facilities.</p>	<p>Changes made to HS-O2:</p> <p>Sensitive activities are established in appropriate locations <u>appropriately located</u> to minimise <u>avoid</u> reverse sensitivity effects and unacceptable residual risk from established hazardous facilities.</p> <p>Reason:</p> <p>Agree with reasons set out by the Fuel Companies.</p>
	<p>Seek that HS-P2 be simplified to better achieve the intent:</p> <p>Avoid <u>unacceptable</u> residual risk to people and sensitive activities from facilities and activities involving the manufacture, use, storage, transportation or disposal of hazardous substances by:</p> <ol style="list-style-type: none"> a. <u>Adequately</u> separating sensitive activities from established facilities and activities; and b. Establishing new <u>hazardous</u> facilities and activities in appropriate locations, separated from incompatible land uses and existing sensitive activities. 	<p>Changes made for the following reasons:</p> <p>Consequential amendments to HS-P2 to reflect stronger directive for new or expanding activities including Major Hazard Facilities to be appropriately located to mitigate cumulative residual risk and avoid unacceptable risk to people and sensitive activities.</p> <p>New HS-P3 focusing on the location of sensitive activities – avoiding being in proximity to a Major Hazard Facility.</p>
	<p>Seek that HS-P3 be simplified to better achieve the intent:</p> <p>Recognise and manage the transitional storage of hazardous substances within the Special Purpose Port Zone to prevent or mitigate</p>	<p>Changes made for the following reasons:</p> <p>Delete what was HS-P3 – cumulative risk in the Port Operational Area, and instead address cumulative residual risk in HS-P2.</p>

	<p>cumulative effects and/or residual risk, including cumulative residual risk.</p>	
	<p>Where effects from Major Hazard Facilities are not completely addressed by compliance with HSNO and HSWA, measures such as location specific risk overlays or separation distances (using risk contours based on a risk analysis) may be appropriate. Depending on the risk, it may be appropriate to consider land use restrictions on land in the vicinity of a MHF to enable the MHF to carry out operations, including maintenance and upgrades, without being unreasonably constrained by encroachment of sensitive activities.</p> <p>There are no rules in this chapter and the Fuel Companies support the intent of that approach. The key matters relevant to hazardous facilities are appropriately managed by the balance of provisions, noting that the Fuel Companies would not be opposed to provisions, including rules, addressing new MHF.</p>	<p>Changes made for the following reasons:</p> <p>New rule for existing Major Hazard Facilities – permitted where there is no change to the risk profile, or otherwise discretionary and where there is a 10% increase in volume. New rule for new Major Hazard Facilities – discretionary in the General Industrial Zone and non-complying in all other zones.</p> <p>New s88 information requirement for a Qualitative Risk Assessment and other location specific assessment matters that are otherwise not addressed by compliance with HSNO and HSWA.</p>
	<p>Seek that the Kaiwharawhara Terminal be rezoned from Mixed Use to General Industrial as the Mixed Use zone is not appropriate for the Kaiwharawhara Terminal and its existing and future operations, particularly as MUZ-PS seeks to avoid heavy industrial activities.</p> <p>The Mixed Use zoning of adjoining properties also raises potential reverse sensitivity issues for a site that is regionally significant infrastructure. In particular, the Zone enables sensitive activities like childcare and education, and may give rise to noise, dust or odour issues. It is therefore not considered that the sensitive activities enabled in the plan can necessarily 'co-exist' with the existing heavy industrial operations as is anticipated by the Mixed Use zone.</p>	<p>Changes made/not made for the following reasons:</p> <p>The Kaiwharawhara Terminal be re-zoned to General Industrial Zone.</p> <p>Rules and/or overlays to address reverse sensitivity were considered - such as a Risk Management Area based on a MHF individual risk fatality contour that would make a sensitive activity non-complying in that area. Upon further discussions with the Fuel Companies it was considered that there is currently a low risk to adjacent residential/commercial sensitive activities and/or potential for reverse sensitivity from new sensitive</p>

		activities establishing in the adjacent area as the General Industrial Zone appropriately seeks to avoid sensitive activities.
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Contaminated land:

Who	Feedback Received	Response
Greater Wellington Regional Council	<p>The language around contaminated land and the benefits of remediation should be stronger.</p> <p>Suggested Amendment:</p> <p>Amend to recognising and providing for the benefits of remediating contaminated land, rather than just recognising.</p>	<p>Change made to CL-P1:</p> <p>“Recognise <u>and provide for</u> the benefits of remediation and site management in enabling development opportunities that can contribute to social, economic, and health benefits for people and communities.”</p> <p>Reason:</p> <p>Agree that policy should provide for the benefits of remediation and site management.</p>
Wellington International Airport Limited	Supports no rule approach, and agrees that this avoids unnecessary duplication with other comprehensive legislation which effectively controls and manages these activities.	No changes requested.
The Fuel Companies (BP Oil New Zealand Limited, Mobil Oil New Zealand Limited, and Z Energy Limited)	Supports no rules approach, noting that the NESCS provides appropriate land use controls. Specific support for the wording of CL-O1 and CL-P3.	No changes requested.