



PROPOSED INVERCARGILL CITY DISTRICT PLAN

Report No. 9

Contaminated Land

**10 June 2014, 9.00 am
DRAWING ROOM
CIVIC THEATRE, TAY STREET, INVERCARGILL**

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POLICY PLANNER**

**Peer Reviewed by: John Edmonds and Dan Wells
JOHN EDMONDS AND ASSOCIATES LTD**

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1. EXECUTIVE SUMMARY

This report relates to the provisions in the Proposed District Plan addressing contaminated land.

The National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health (NES) was developed, and came into force on 1 January 2012. The NES requires territorial authorities to control development (land use changes, subdivision and soil disturbance) on land affected or potentially affected by contaminants.

In preparing the Proposed District Plan, the Council has taken into account its responsibilities in implementing the NES as part of its functions under Section 31 of the RMA. Under the NES territorial authorities are required to prevent or mitigate any adverse effects of the subdivision, development or use of contaminated land.

The Council's responsibilities under Section 31(1)(b)(iia) were not expressed in the RMA until after the Operative District Plan became Operative in 2005. As a result the Operative District Plan did not specifically address the issue of contaminated land as a significant resource management issue. The Proposed District Plan rectifies this by developing policies and objectives which seek to prevent or mitigate any adverse effects of the subdivision, use and development of contaminated land, in accordance with s31(1)(b)(iia). Provisions have also been developed to avoid new areas of land contamination and further contamination of already contaminated sites.

Forty one submission points and five further submissions were received on the contaminated land provisions of the Proposed District Plan. Twenty seven of the submission points were in support, 12 were in general support with amendments and two were in opposition.

My report recommends amendments to the Introduction, Issue 2, Policies 1, 3, and 6, and Method 3 of the contaminated land provisions and deletion of Policy 4. It also recommends a minor amendment to Policy 10 of the subdivision provisions which relate to contaminated land. The recommended amendments to the Introduction, Issues and Policies are set out in **Appendix 2** and are considered only minor changes. Policy 4 as notified is unclear and overlooks the complexity of contaminants and the need for site specific assessment.

In this report:

- Part 2 considers several key procedural issues.
- Part 3 provides background information on the issue of contaminated land.
- Part 4 summarises the various statutory provisions that apply to the consideration of the Proposed District Plan.
- Part 5 assesses the relevant issues raised by the submitters.
- Part 6 provides a discussion on the Section 32 matters.
- Part 7 sets out the overall conclusions.
- Appendix 1 sets out the recommendations on each of the submission points.
- Appendix 2 sets out the recommended changes to the text of the Proposed District Plan.

2. INTRODUCTION

2.1 Report Author

My name is Joanna Louise Shirley. I am a Policy Planner at the Invercargill City Council, a position I have held since February 2014. I hold a Bachelor of Environmental Management and am an associate member of the New Zealand Planning Institute. I have five years experience in the planning field as a Resource Management Officer, which has involved implementing the District Plan and producing various planning documents.

2.2 Peer Review

This report has been peer reviewed by Dan Wells and John Edmonds, from John Edmonds and Associates Ltd. Both John Edmonds and Dan Wells are practising resource management planners with a variety of experience throughout the plan change preparation process. Dan Wells has a Bachelor of Resource and Environmental Planning (Hons) and a Post Graduate Diploma in Development Studies, both from Massey University. John has a Bachelor of Regional Planning from Massey University.

2.3 How to Read this Report

This report is structured as follows:

- Interpretation (an explanation of some of the terms used).
- A summary of the hearing process.
- Background to the contaminated land topic, and the provisions of the Proposed Invercargill City District Plan 2013.
- Description of the statutory framework within which the proposed provisions have been developed.
- Analysis of the submissions, including a discussion of the key issues raised through the submissions and further submissions received.
- Assessment of the proposed changes under Section 32 of the RMA.
- Concluding comments.
- Recommendations on individual submissions.
- Tracked changes of the Proposed District Plan provisions relating to contaminated land.

To see my recommendation on an individual submission please refer to the table in **Appendix 1**. The table sets out the name and relevant submission number of those that submitted on the contaminated land provisions; a brief summary of their submission and decisions requested, followed by my recommendation and the reasons for it.

2.4 Interpretation

In this report, the following meanings apply:

“Council” means the Invercargill City Council.

“FS” means further submitter in Appendix 2.

“Hearing Committee” means the District Plan Hearing Committee.

“NES” for the purpose of this report means the National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human health 2011.

“Operative District Plan” means the Invercargill City District Plan 2005.

“Proposed District Plan” means the Proposed Invercargill City District Plan 2013.

“Provisions” is a term used to collectively describe Objectives, Policies and Rules.

“RMA” means the Resource Management Act 1991.

“Submitter” means a submitter to the Proposed District Plan.

2.5 The Hearing Process

A number of hearings are to be held to consider the submissions lodged to the Proposed Invercargill City District Plan 2013. The hearings have been divided up to ensure that submissions on similar issues have been grouped together and to enable the District Plan Hearings Committee to make decisions on the provisions relating to those issues. This report applies to the contaminated land provisions of the Proposed District Plan.

The Hearings Committee comprises of accredited Invercargill City Councillors, with the assistance of an Independent Hearings Commissioner. This Committee is to consider the Proposed Plan and the submissions and further submissions lodged. The Hearings Committee has full delegation to issue a decision on these matters.

This report is prepared pursuant to Section 42A of the Resource Management Act 1991 (the “RMA”). Section 42A provides for a report to be prepared prior to a hearing, setting out matters to which regard should be had in considering a Proposed District Plan and the submissions lodged to it. This report highlights those matters that are considered appropriate by the author for the Hearings Committee to consider in making decisions on the submissions lodged. This report has been prepared on the basis of information available prior to the hearing.

While the Hearings Committee is required to have regard to this report, regard must also be given to the matters raised in submissions, and presentations made at the hearing. The comments and recommendations contained in this report are not binding on the Hearings Committee and it should not be assumed that the Hearings Committee will reach the same conclusions set out in the report having heard from the submitters and Council advisers.

The hearing is open to the public, and any person may attend any part of the hearing. Those persons who lodged a submission have a right to speak at the hearing. They may appear in person, or have someone speak on their behalf. They may also call evidence from other persons in support of the points they are addressing.

At any time during or after the hearing, the Hearings Committee may request the preparation of additional reports. If that is done, adequate time must be provided to the submitters, to assess and comment on the report. The Hearings Committee may determine that:

- The hearing should be reconvened to allow responses to any report prepared, or
- Any responses be submitted in writing within a specified timeframe.

At the conclusion of the hearing process, the Hearings Committee will prepare a written decision. The decision is sent to all persons who lodged a submission. If not satisfied with the decision the submitters have a right of appeal to the Environment Court. If an appeal is lodged, the RMA requires a copy to be served on all submitters with an interest in that matter. Any submitter served may, if they wish, become a party to the appeal either in support or opposition to it.

If there is an appeal, the Environment Court will provide an opportunity for mediation between the parties. If mediation is not accepted, or does not resolve the issues, a further hearing will take place before a Judge and Court appointed Commissioners.

Except on points of law, the decision of the Environment Court is final.

3. BACKGROUND

Inappropriate storage, transportation and use of hazardous substances and disposal of hazardous wastes can result in land contamination. Industrial, domestic and rural activities have all contributed to contamination of land in Southland, the full extent of which is largely unknown.

The RMA provides for the sustainable management of natural and physical resources and is the core piece of environmental legislation for controlling the effects of contaminated land on the environment and people. The RMA defines contaminated land as “land that has a hazardous substance in or on it that (a) has significant adverse effects on the environment; or (b) is reasonably likely to have significant adverse effects on the environment.”

In 2005 amendments were made to Sections 30 and 31 of the RMA to make specific reference to the responsibilities of both regional councils and territorial authorities with regard to hazardous substances and contaminated land. Under Section 31 territorial authorities are required to prevent or mitigate any adverse effects of the subdivision, development or use of contaminated land.

Following the 2005 amendments, a National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health (NES) was developed, and came into force on 1 January 2012. The NES requires territorial authorities to control development (land use changes, subdivision and soil disturbance) on land affected or potentially affected by contaminants. The Ministry for the Environment has produced a Hazardous Activities and Industries List (HAIL) which identifies activities likely to cause land contamination resulting from hazardous substances use storage, or disposal. The NES applies to a piece of land that has an activity listed on the HAIL occurring on it, or is more than likely to have had a HAIL activity occurring on it in the past.

In December 2013 the Council, along with Gore District Council, Southland District Council and Environment Southland, signed a contaminated land information management protocol. In general terms, the protocol is an agreement between the different councils on the sharing of information in relation to sites associated with hazardous substances. The information helps to form an electronic register which is held by Environment Southland and identifies these sites.

The Operative District Plan does not identify contaminated land as a significant resource management issue. As a result there is currently a lack of information, monitoring and management of contaminated land within the Invercargill City district, and this needs to be addressed in the Proposed District Plan.

This report relates to the provisions in the Proposed District Plan addressing contaminated land. This includes:

- Section 2.5, which contains the issues, objectives, policies and methods of implementation;
- Section 3.3, which contains the rules (or in this case a reference to the NES); and
- Appendix XII, which is the full version of the NES.

In preparing the Proposed District Plan, and as part of its functions under Section 31 of the RMA, the Council has taken into account its responsibility to implement the NES.

3.1 Proposed Issues, Objectives and Policies

Section 2.5 of the Proposed District Plan contains the District Wide Issues, Objectives, Policies and Methods of Implementation relating to contaminated land. In developing objectives and policies the Council may impose measures to address any potential or actual effects on the environment to achieve integrated management of the effects of the use, development, or protection of land and associated natural and physical resources.

Two significant resource management issues have been identified in the Proposed District Plan for contaminated land. These are:

1. Contaminated land which has not been adequately identified, assessed or managed may contribute to increased risk to community health and the environment.
2. Subdivision, ground disturbance, use and development of contaminated land can have adverse effects on human health.

Four objectives and six policies have been developed to address the significant resource management issues. The provisions seek to identify, monitor and manage soil contamination and avoid the creation of new areas of contaminated land, and further contamination on existing contaminated sites.

The lack of information on contaminated land is a major issue, not only in Invercargill but across the entire Southland region. Under Section 30 of the RMA, it is the regional council's responsibility to investigate land for the purpose of identifying and monitoring contamination, but it is the territorial authority's responsibility to manage the effects of the use and development of such land. It is therefore important that the Council and Environment Southland openly communicate on contaminated land issues, to ensure that all relevant information is shared between organisations and is made available to property owners and the general public. This is recognised by the policies of the Proposed District Plan where an integrated and collaborative approach with Environment Southland, central government, landowners, developers, and the community is promoted.

The policies also promote public awareness of contamination issues and best practice measures for dealing with soil contamination.

It is noted that the NES does not contain any policy guidance and therefore any consent application under the NES must be assessed against the objectives and policies of the District Plan, in accordance with the requirements of section 104 of the RMA. Policies in the District Plan therefore provide the opportunity to provide guidance on how the issue of contaminated land is to be managed at a local level, including managing potential effects on the environment (in addition to human health which is the focus of the NES).

3.2 Proposed Rule

Council's responsibilities in relation to contaminated land were not expressed in the RMA until after the Operative District Plan became operative in 2005. For this reason the Operative District Plan does not specifically address the issue of contaminated land as a significant resource management issue.

Territorial authorities must, by law, give effect to National Environmental Standards in their District Plans. Section 43B of the RMA states that a rule in a District Plan cannot be more lenient than a National Environmental Standard, and can be no more stringent, unless expressly allowed for in the standard. The National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health does not state that the provisions of a District Plan may be stricter than the provisions of the NES. This means that the provisions of the NES prevail and therefore formulate the regulatory framework for managing contaminants in soil to protect human health.

Several options for how to incorporate the NES into the Proposed District Plan were considered by the Plan Group when formulating the contaminated land provisions. The favoured option decided upon (set out below) was to attach the NES as an appendix, and include a note in Section 3 of the Plan, outlining the obligations under the RMA to comply with the NES.

“3.3.1 Note: All activities, including removing or replacing a fuel tank, soil sampling, soil disturbance, subdivision or change in land use, undertaken on a “piece of land”, are required under the RMA to comply with the requirements of Clause 8 of the National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health 2011 contained in Appendix XII. The National Environmental Standard sets out what can be undertaken as a permitted activity and where resource consent will be required.

Where the need for resource consent is triggered by the National Environmental Standard, any relevant matters should be addressed in the Assessment of Effects.”

This approach meets the Council’s obligations under the RMA and the NES. A note rather than a rule has been used to avoid unnecessary duplication of the resource consent process under both the District Plan and the NES.

4. STATUTORY CONTEXT / LEGISLATIVE REQUIREMENTS

4.1 Resource Management Act 1991

In reviewing the District Plan, the Council must follow the process outlined in Schedule 1 of the RMA.

The process under the First Schedule includes notification for submissions (clause 5) and further submissions (clause 8), holding a hearing into submissions (clause 8(b)), and determining whether those submissions are accepted or rejected and giving reasons for the decisions (clause 10).

Clause 29(4) of the First Schedule to the RMA states that after considering a plan the local authority may decline, approve, or approve with modifications, the plan change, and shall give reasons for its decisions.

Under s74 of the RMA, in relation to changes to the District Plan, Council must consider Part 2 of the RMA (purposes and principles), s32 (alternatives, benefits and costs), and relevant regional and district planning documents.

4.1.1 Part 2 of the RMA

Part 2 of the RMA (ss5-8) sets out its purpose and principles of the Act

The purpose of the RMA is set out in Section 5. I confirm that the provisions for managing contaminated land fall within the purpose of the Act. In particular, the provisions are designed to safeguard the life supporting capacity of soil to meet the reasonable foreseeable needs of future generations in accordance with Sections 5(2)(a) and (b) of the RMA.

Section 6 of the RMA sets out matters of national importance which must be recognised and provided for. None of these matters are relevant to the issue of contaminated land.

Section 7 of the RMA sets out “other matters” for which particular regard shall be had. It is considered that the most relevant matters to contaminated land are:

- (b) *the efficient use and development of natural and physical resources*
- (f) *Maintenance and enhancement of the quality of the environment:*

I consider that the provisions relating to contaminated land in the Proposed District Plan demonstrate particular regard to these matters. Policies have been developed to identify and determine appropriate management action for contaminated land. This helps reduce the potential for people and ecosystems to be exposed to contamination, enhancing the quality of the environment for people to reside, work and play.

Section 8 of the RMA obliges persons exercising functions and powers under the RMA to take account of the principles of the Treaty of Waitangi. Representatives from Te Ao Marama Inc have been part of the Plan Review process as members of the Council’s Plan Group which worked on developing the Proposed District Plan. Consultation with Iwi has also occurred. Soil quality is identified by tangata whenua as a resource management issue of concern to them. The local runanga has

submitted in support of the contaminated land provisions provided in the Proposed District Plan.

4.1.2 Functions of Territorial Authorities under the RMA

Section 31 of the RMA sets out the functions of a territorial authority under the RMA. One of the functions set out in Section 31(1)(a) is:

“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.”

Under Section 31(1)(b)(iia) of the RMA, a territorial authority is required to “... control ... any actual or potential effects of the use, development, or protection of land including for the purpose of the prevention or mitigation of any adverse effects of the development, subdivision, or use of contaminated land.”

The Council’s responsibilities under Section 31(1)(b)(iia) was not expressed in the RMA until after the Operative District Plan became operative in 2005. As a result the Operative District Plan did not specifically address the issue of contaminated land as a significant resource management issue. The Proposed District Plan rectifies this by developing policies and objectives which seek to prevent or mitigate any adverse effects of the subdivision, use and development of contaminated land, in accordance with Section 31(1)(b)(iia).

One submission questioned the function of the Council to address the wider issues of land contamination, beyond that of human health. As discussed later in the report it is considered that the contaminated land provision meet the purpose of Part 2 of the RMA as well as the functions under Section 31.

4.1.3 Consideration of alternatives, benefits, and costs

Section 32 of the RMA states the Council’s obligations in assessing the alternatives, benefits and costs.

Whilst a Section 32 report was released at the time of notification of the Proposed District Plan, the Council is required to carry out a further evaluation through the hearing, consideration and deliberation process before making its decision on the Plan Change. Section 6 of this report includes my evaluation of the Proposed District Plan Provisions in accordance with s32AA.

4.2. Relevant Planning Policy Documents

The RMA specifies a number of documents which need to be considered when making a decision on a Proposed District Plan, and the weight that should be given to these. These are addressed in the following section.

4.2.1 New Zealand Coastal Policy Statement

Section 75 of the RMA requires that a District Plan must give effect to any New Zealand Coastal Policy Statement. There are no matters of relevance to contaminated land within this document.

4.2.2 National Policy Statements

In accordance with Section 75 of the RMA, a District Plan must give effect to National Policy Statements. There are no National Policy Statements that directly relate to contaminated land.

4.2.3 National Environmental Standards

Section 44A of the RMA prescribes how District Plans must be amended if a rule conflicts with a National Environmental Standard.

The National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health came into effect on 1 January 2012. The NES provides a nationally consistent set of planning controls and soil contaminant standards that all territorial authorities are required to give effect to and enforce.

The purpose of the NES is to ensure that land affected by contaminants in soil is appropriately identified and assessed when soil disturbance and/or land development activities take place and, if necessary, that land is remediated or contained to make it safe for the intended use. The purpose of the NES is to protect human health and does not apply to assessing or managing the actual or potential adverse effects of contaminants on other receptors including ecological, water quality or amenity values.

The Operative District Plan currently has no specific provisions on contaminated land. The issue of land contamination is indirectly addressed through the hazardous substances provisions, but these provisions do not address sites that are already subject to contamination.

The Proposed District Plan has established new provisions for contaminated land through which the regulations of the NES are incorporated. The full NES document has been attached as an appendix and reference to the regulations are made in the Rule Section of the Proposed District Plan.

4.2.4 Regional Policy Statement

Under Section 75 of the RMA, a District Plan must give effect to an operative Regional Policy Statements.

The policies and objectives from the Southland Regional Policy Statement (1997) specifically relevant to the contaminated land provisions are set out below:

Objective 8.1 To promote the sustainable management of all soils

Objective 8.4 To avoid contamination of soils

Policy 8.1 Maintain and enhance Southland's soil resource by avoiding, remedying or mitigating the adverse effects of activities.

Policy 8.5 Promote land use practices which avoid the contamination of soils.

- Policy 8.6* *Require, where practicable, the rehabilitation of contaminated soils where there is a significant adverse effect on the environment.*
- Objective 10.2* *To maintain and enhance the environmental quality of the Region's built environment.*
- Objective 17.1* *To safeguard the environment from the adverse effects from the existing and past storage, use, disposal or transportation of hazardous substances.*
- Policies 17.1* *Promote the co-ordination of hazardous substances management between national, regional and territorial authorities.*
- Policies 17.2* *Ensure that present and future sites used for the disposal of, or contaminated by hazardous substances do not pose additional or ongoing risks to people or the environment.*

Effect has been given to the above objectives and policies.

The contaminated land provisions of the Proposed District Plan seek to identify, monitor and manage soil contamination and aim to avoid the creation of new areas of contaminated land, and further contamination on existing contaminated sites. The adverse effects of contamination on subdivision, use and development of contaminated land are remedied or mitigated largely through the implementation of the NES regulations and through public awareness and understanding of contamination issues. The policies promote an integrated and collaborative approach with Environment Southland and other relevant agencies to ensure contamination issues are accurately identified and addressed.

4.2.5 Proposed Regional Policy Statement

In accordance with Section 74, regard needs to be given to any proposed Regional Policy Statement. The Proposed Southland Regional Policy Statement was notified in May 2012. The following objectives and policies are relevant to the issue of contaminated land.

- Objective CONTAM.1* *Identify, investigate and monitor contaminated land and prevent or mitigate adverse effects*
- Objective CONTAM.2* *Avoid, remedy or mitigate adverse effects. Adverse effects on the environment and human health from contaminated land are avoided, remedied or mitigated.*
- Policy CONTAM.1* *Identify and prioritise land. Identify and prioritise for action, land within Southland that is subject to actual or potential contamination.*
- Policy CONTAM.2* *Management of contaminated land.*
- a) Protect human health when undertaking activities on land that is potentially, or known to be contaminated.*
- b) Manage priority contaminated land to avoid, remedy or mitigate adverse effects on the environment*

Policy CONTAM.3 Promote public awareness, understanding and an integrated management approach between central government, local authorities, iwi, landowners, developers and the community to the management of contaminated land.

Objective HAZ.1 Protection of the environment and human health and safety, from the adverse effects of the storage, use, transportation and disposal of hazardous substances.

Policy HAZ.7 - Avoid the creation of new contaminated land in Southland.

The Policies and Objectives are similar to the Operative RPS and those prepared in the District Plan. Overall, there is a greater emphasis on identification and prioritisation of contaminated sites and on collaboration between different levels of government and other sectors. The accord signed between ES, ICC and Southland District Council will assist in implementing these objectives, as will the objectives policies and the Proposed Invercargill District Plan. I consider that appropriate regard has been given to the proposed RPS.

4.2.6 Regional Plans

In accordance with Section 74 of the RMA, a District Plan must not be inconsistent with a Regional Plan.

Plan Change 14 (Landfills and Contaminated Land) to the Regional Water Plan for Southland is relevant. The plan change was publically notified on 1 December 2012. Rules 57 and 58 and their associated policies were given immediate effect on this date. A decision on the Plan Change was released on 29 March 2014 and is currently subject to an appeal.

The provisions of the Proposed District Plan on contaminated land are consistent with the provisions of Plan Change 14, particularly Policy 48, set out below:

Policy 48 – Manage land contamination

- (a) The best practicable option is adopted to prevent or minimise adverse effects from land contaminated by a hazardous substance, and*
- (b) Monitoring and reporting is carried out to confirm the option adopted in (a) is successful.*

Pursuant to the proposed policy, the Council is seeking that these actions be carried out through the objectives and policies of the Proposed District Plan. The best practical option for addressing contaminated land will be determined on a site by site basis and land identified as affected by soil contamination are to be monitored and managed.

4.2.7 Iwi Management Plans

Section 74 of the RMA requires that a local authority must take into account any relevant planning document recognised by an iwi authority and lodged with the territorial authority.

Ngai Tahu has lodged an Iwi Management Plan with the Council. The relevant document is the *Ngai Tahu ki Murihiku Natural Resource and Environmental Iwi Management Plan 2008 – The Cry of the People - Te Tangi a Taurira*. Te Tangi a Taurira does not raise contaminated land as a specific matter of concern, but it is noted that policies have been developed to mitigate the adverse effects of certain activities on soil. The contaminated land provisions seek to safeguard the life supporting capacity of soils for the foreseeable needs of future generations.

4.2.8 Management Plans and Strategies Prepared under other Acts

A District Plan is required to have regard to management plans and strategies prepared under different Acts. There are no management plans or strategies considered relevant to the matter of contaminated land.

4.3 Summary

I consider that the purpose and principles of the RMA are met by the contaminated land provisions as well as their functions under Section 31. The proposed provisions fall within the functions of local authorities. The requirements of Section 32 of the RMA have been met through the evaluations carried out prior to notification and in this report. The various documents required to be considered have been appropriately addressed in the preparation of provisions relating to contaminated land.

5. ANALYSIS OF SUBMISSIONS

Forty-one submission points and five further submissions were received on the contaminated land provisions of the Proposed District Plan. Twenty-seven of the submission points were in support, 12 were in general support with amendments and two were in opposition. These submissions are summarised in table format, along with recommended responses, in Appendix 2 of this report.

The key issues raised in the submissions are:

1. Section 2.5 Introduction
 - Distinction between land contamination and contaminated land.
 - Link between the HAIL, NES and the RMA and recognition of Environment Southland's SAHS Register.
2. Objectives 1 and 3
 - Ability to avoid new or further contamination of already contaminated sites.
 - Whether contaminated land should be addressed as part of the hazardous substances provision.
3. Objective 2
 - Identification of contaminated land.
4. Policy 4 – On-site containment
 - Best practical means approach.
5. Policy 6 – Management
 - Jurisdiction of the Council to consider the wider issues of contamination.
 - Extent to which a likely future use of a site should be considered.
6. General Matters
 - Availability and sharing of information.
 - Cross referencing.
 - Minor amendments.

The provisions challenged by the submitters and the key issues raised in the submissions are discussed below.

5.1 Section 2.5 Introduction

Two submissions and one further submission were received on the introduction.

5.1.1 Distinction between land contamination and contaminated land

A submission from Environment Southland considers that the introduction to Section 2.5 does not provide a clear distinction between land contamination and contaminated land. A number of amendments to the introduction are sought by Environment Southland and are set out in Appendix 1.

I agree that some of the submitter's amendments clarify the issue of contamination, and recommend that these are accepted. However, not all of the recommended changes are considered necessary. It is important to note that the contaminated land provisions of the Proposed District Plan are primarily focussed on contaminated land and not land contamination. Although objectives and policies are provided to avoid new areas of contamination and further contamination of already contaminated sites, the primary function of the Council under Section 31 of the RMA is to prevent or mitigate any adverse effects of the development, subdivision, or use of contaminated land.

5.1.2 Amendment to include link between HAIL, NES and the RMA and recognition of the SAHS Register

Environment Southland further suggests that it would be helpful for the Introduction to highlight the link between HAIL sites, the NES and the RMA and to clarify the need for collaboration with Environment Southland. It was also suggested that it would be beneficial for the SAHS Register to be recognised.

I agree with the submitter that an explanation of the link between HAIL sites, the NES and the RMA in the introduction would be helpful to users of the Plan. I am therefore recommending that the introduction be amended to include this.

I believe Policy 1 and the explanation to Policy 2 adequately addresses the SAHS Register and why a collaborative approach with Environment Southland is needed. I do not consider it necessary to repeat this information in the Introduction.

5.1.3 Minor amendment

A submission was made recommending that the last sentence of the last paragraph be amended to read "There will need to be cooperation with ES". I consider that the amendment is a minor correction and should be accepted.

5.1.4 Recommendation

The introduction should be amended to help clarify the issue of contaminated land. My recommended amendments to the introduction are set out in Appendix 2.

5.2. Objectives 1 and 3

Objectives 1 and 3 of the Contaminated Land Provisions seek to avoid the creation of new areas of contaminated land and further contamination of already contaminated sites. One submission and one further submission were received in opposition to the objectives, and five submissions were received in support.

5.2.1 Feasibility of avoiding new or further contamination of already contaminated sites

The submitter in opposition to the objectives commented that it is unrealistic of the Council to expect to avoid the creation of new or further contaminated land. The further submitter supports the comments made by the submitter.

I do accept the point that avoidance will not always be practically achievable. However, I consider that amending the objectives to include phrases such as "where

practical” would weaken the Council’s position on this matter. I therefore do not agree with the submissions.

Contaminated land is defined in the Proposed District Plan as “land that has a hazardous substance in or on it that (a) has significant adverse effects on the environment; or (b) is reasonably likely to have significant adverse effects on the environment; or (c) is likely to pose an immediate or long term hazard to human health.” The definition places a strong emphasis on significant adverse effects on the environment and human health. I consider it to be reasonable and necessary to avoid such effects and believe it is a position that the Council should remain firm on.

The purpose of an objective is to set an overall direction, providing a target to aim towards. The objectives in the Proposed District Plan are supported by policies and methods to help achieve the goal. The objectives set the bar for what the Council ultimately want to achieve which is the avoidance of contaminated land. They give effect to the objectives and policies (Objective 8.4 and Policy 8.5) of the RPS, which seek to avoid contamination of soils. This is in accordance with Section 75 of the RMA, which requires a District Plan to give effect to an Operative RPS.

5.2.2 Should contaminated land be addressed through the hazardous substances provisions of the Plan?

The submitter further believes that Objectives 1 and 3 are already met through the hazardous substances provisions. The hazardous substances provisions provide specific policies on the manufacture, storage, use, disposal and transportation of hazardous substance in order to avoid a range of adverse effects on the environment. These policies support the contaminated land provision, but should not replace them. Objectives 1 and 3 set a more direct and clear goal for avoidance of contamination, than what is provided in the hazardous substances provisions, and should remain.

5.2.3 Recommendation

Objectives 1 and 3 should remain as notified.

5.3. Objective 2

Objective 2 seeks to identify, monitor and manage land that is affected by soil contamination. Five submissions were received in support of the objective and one was in support with an amendment.

5.3.1 Identification of Contaminated Land

One submitter has commented that, if widely interpreted, the objective could be read as a commitment to actively identify suspected hazardous sites, which could lead to investigations and monitoring of a number of sites where there is very little risk. The submitter comments that the NES does not require territorial authorities to actively identify land. If this is not the intent of the objective, the submitter recommends removing the word “identified”.

A further submission, opposing the submitter’s views, was received. The further submitter considers that the objective is based on the significant resource management issue of land contamination not being adequately identified. They

comment that the objective provides for the transparency of information and enables individuals and businesses to make informed decisions.

It is not the intention of the Objective for the Council to actively investigate sites. Under the NES it is the responsibility of the individual, wishing to undertake an activity described in Regulation 5 to identify whether or not their piece of land has, currently or previously, had an activity or industry described on the HAIL undertaken on it. If this is established then the proposal will need to be assessed against the NES regulations which may involve soil testing.

Under Section 31 of the RMA, it is a function of the territorial authority to prevent or mitigate any adverse effects of the development, subdivision or use of contaminated land. In order to carry out this function, land that is contaminated or potentially contaminated needs to be identified. This will be done through the implementation of the NES and through collaboration and sharing of information with Environment Southland and other agencies on contamination issues. I therefore recommend no change to this objective as a result of these submissions.

5.3.2 Recommendation

Objective 2 remains as notified.

5.4. Policy 4 – On-site Containment

Policy 4 reads:

“To favour on-site containment of contamination as part of a “best practical means” approach to addressing it unless the contaminated material can be removed to an accredited disposal facility capable of receiving the contaminated material.”

Five submissions in support of the policy and one submission in opposition to it were received. One further submission was also received.

5.4.1 Best practical means approach

The opposing submitter interprets the policy as firstly promoting the excavation and removal of contaminated soil from the site and then, as a second method, the containment of contaminated material on the site. The submitter questions whether it is appropriate for the policy to establish a hierarchy of management approaches and believe that the management of contamination on site may not always be the best management approach. They consider that the best practical option should be assessed and adopted on a case by case basis. The submitter requests the deletion of Policy 4.

The purpose of the policy is to raise the potential for on site containment of contaminated material where it can be contained and managed on-site as an alternative to creating another area of contamination elsewhere. I accept that this is not how the policy reads and agree with the submitter that the Council should not be establishing a hierarchy of management approaches.

Contaminants vary widely in complexity, physical, and chemical characteristics and in the potential risk that they may pose to human health and the environment. Site assessment and the need for remediation are related to the environment and risks specific to each site. Where human health is deemed to be at risk, or the off-site

environment is likely to suffer significant adverse impacts, a site should be rehabilitated to the extent necessary to minimise such risks. However, in cases where there is no threat, or an acceptable threat, to human health or the environment, it may be acceptable to devise a strategy whereby the contaminants are contained on site. The appropriate management action for a contaminated land will need to be determined by an on site assessment. This is provided for under Policy 6 which seeks to manage contaminated land on a site by site basis.

The further submitter supports Policy 4 as notified. The further submitter notes that the smelter uses hazardous substances which could result in contamination if not used or disposed of properly, but where it is disposed off, it is controlled and monitored. They agree with the submitter that in some cases on-site containment may not be the best practical option to address contamination, but if this is the case, they suggest that the Policy be amended to reflect this, rather than be deleted.

The further submitter has interpreted the Policy as providing for on-site containment of land contamination, but that is not the intent of the policy. The focus of the policy is for on site containment of already contaminated land, and not the containment of new areas of contamination, as suggested by the further submitter.

5.4.2 Recommendation

It is recommended that Policy 4 be deleted. The Policy is unclear and overlooks the complexity of contaminants and the need for site specific assessment. It is considered that Policy 6 sufficiently provides for management of contaminated land and that it is not practical to establish a preference in disposal methods in this instance.

As a consequence of this change, it is also recommended that the first sentence of the fourth paragraph of Policy 1 be deleted.

5.5. Policy 6 – Management

Policy 6 of the contaminated land provisions seeks to determine appropriate management action for contaminated land on a site by site basis. Five submissions in support and two submissions in general support with amendments were received on Policy 6.

5.5.1 Jurisdiction of the Council to consider the wider issues of contamination

One of the considerations under Policy 6 (H) is the off site or downstream effects of contamination on the environment and on public health.

One submitter questioned whether it was a function of the Council, as a territorial authority, to be addressing the effects of contamination on the environment. It is noted by the submitter that the role of the Council in relation to the management of contaminated land is limited to human health effects.

I do not agree with the submitter that the Council's role in relation to the management of contaminated land is limited to human health. I agree that the NES is restricted to the effects of contaminated land on human health, but that does not limit the ability of the Council to develop objectives and policies addressing the wider issues of contamination. The Ministry for the Environment comment that "Council's may impose additional controls under the RMA to address any potential or actual effects

on other receptors (other than effects on human health) or other matters that they have control over” (Ministry for the Environment, 2012, p.10).¹

Under Section 31(1)(a) the Council has the function of establishing, implementing and reviewing objectives, policies and methods to achieve integrated management of the effects of the use, development and protection of land and associated natural and physical resources of the district. I consider that that this policy meets this function by ensuring that adverse effects on the environment are considered and protected.

5.5.2 Extent to which the likely future use of a site should be considered

Under Policy 6(D) the existing and likely future use of the site and surrounding land use is to be considered.

One submitter questioned the extent to which “the likely future use of the land” should be considered in Policy 6(D), particularly as Council will have clear ability to address issues upon any change of land use under the NES.

A change in land use that is likely to harm human health is one of the five activities that trigger an assessment under the NES. The submitters point is therefore accepted. However, it is noted that the proposed use of the site is relevant and should be considered when determining appropriate management action for contaminated land. It is therefore recommended that the Policy be amended to replace “likely future use of the site” with “proposed use of the site”.

5.5.3 Recommendation

Amend Policy 6 to replace “likely future use of the site” with “proposed use of the site”.

5.6 General Matters

5.6.1 Availability and sharing of information

The importance of information sharing, identification and the availability of information on contamination issues were expressed by five of the submitters. In general, the submitters believed that the provisions adequately addressed this matter, but it was suggested that the provisions could be supported by an electronic database, providing for the collection and sharing of information, and by the mapping of HAIL sites on the District Planning Maps.

The submitter’s suggestion to create an electronic database has already been developed by Environment Southland, and is available to the public on Environment Southland’s website. The database holds a record of Sites Associated with Hazardous Substances and is referred to as the SAHS Register. The SAHS is used to manage information about properties in the Southland region that have been used for activities involving hazardous substances, and which have a potential for contamination.

¹ Ministry for the Environment (2012). *Users Guide: NES for Assessing and Managing Contaminants in Soil to Protect Human Health*. Wellington, New Zealand.

The HAIL is used to help create the SAHS and identifies activities and industries involving the use, storage or disposal of hazardous substances. As part of the contaminated land information management protocol the Council and Environment Southland have an agreement to share information on sites listed on the SAHS, and provide new information on sites not yet registered. It is important to note that the SAHS is still being developed, and only a small number of the city's HAIL sites have been registered on the SAHS to date.

The submitter's suggestion to map the HAIL sites on the District Planning Maps is not considered to be a feasible option at the current time. Invercargill's history as a rural servicing centre means that every site that is or has been used for an activity other than residential or commercial use is a potential HAIL site. Although information on these sites is becoming more available, the exact extent of the problem is still unknown. It would be misleading and inaccurate to map only some of the HAIL sites, as it does not provide a full or accurate picture of the extent of the issue. Further, because information on contaminated sites is continually growing, it is not considered appropriate to include them on the District Planning Maps which are only current on the date that they are published.

The effect on property values and marketability of a site identified as being on the HAIL must also be considered. Incorrect information could have a negative effect on property values and may expose the Council to legal liability. Active investigation of HAIL sites is lead by the regional authority but the Council works closely with Environment Southland on these issues.

5.6.1.1 Recommendation

The Proposed District Plan provides for sharing of advice and Council held information to land owners and occupiers in Method 2. This method, along with Policies 1 and 2 are considered sufficient to ensure information on contaminated sites is made available to the public.

5.6.2 Inclusion of the HAIL Register in the District Plan

One submitter considers that it would be useful to include the HAIL as an appendix in the District Plan. A further submitter opposes this suggestion commenting that the HAIL is a "living document" and that it would be impractical and unnecessary for the Proposed District Plan to continually be updated to reflect any changes to the list.

The NES defines the "HAIL" as the current edition of the Hazardous Activities and Industries List. Users of the HAIL should therefore always refer to the current issue of the HAIL which is published on the Ministry for the Environments website. I agree with the further submitter's comments and believe that the HAIL should not be included in the District Plan for the reasons stated by the further submitter.

Method 2 of the contaminated land provisions provides for advice to landowners and occupiers on information held by the Council. I consider that this will be sufficient to ensure that the public are informed on where they can find the current issue of the HAIL.

5.6.3 Cross Referencing

One submitter suggests cross referencing the NES with the Soils Minerals and Earthworks provisions.

Cross referencing has not been included in the Plan. The way in which the Plan has been drafted means that all of the District Wide Rules must be complied with, as well as the zone specific rules. This means that the user of the Plan needs to look at the entire document and not just one rule in isolation. That said, the comment is noted and issues of formatting may be revisited at a later point by the hearings committee prior to issuing a decision. The submitter's submission will be revisited at this time.

5.6.4 Minor Amendments

I also recommend minor changes to Issue 2, Policy 1, Policy 3, Method 3 and the explanation of Policy 5 of the contaminated land provisions and Policy 10 of the Subdivision Provisions. The changes are minor corrections and will result in no consequence to the intention and outcome of the provisions. It is considered that the changes are a correction of a minor error and that the effects of the amendments are such that the amendments can be made at this stage under clause 16 (2) of the First Schedule to the RMA.

6. DISCUSSION OF SECTION 32 MATTERS

Section 32 of the RMA establishes the framework for assessing objectives, policies and rules proposed in a Plan. This requires the preparation of an Evaluation Report. This Section of the RMA was recently amended (since the notification of the proposed District Plan) and the following summarises the current requirements of this section.

The first step of Section 32 requires that objectives are assessed to determine whether they are the most appropriate way to achieve the purpose of the RMA (as defined in Section 5).

The second step is to examine policies and rules to determine whether they are the most appropriate way to achieve the objectives. In this instance, the objectives are those proposed by the District Plan. This assessment includes requirements to:

- Identify the costs of the environmental, economic, social, and cultural effects that are anticipated from the implementation of the provisions (including effects on employment and economic growth)
- Identify other reasonably practicable options for achieving the objectives; and
- Assess the efficiency and effectiveness of the provisions in achieving the objectives.

An Evaluation Report was released at the time of notification of the Proposed Plan.

Section 32AA of the RMA requires a further evaluation to be released with decisions, outlining the costs and benefits of any amendments made after the Proposed Plan was notified.

Section 32 states that Evaluation Reports need to contain a level of detail that corresponds to the scale and significance of the environmental, economic, social, and cultural effects that are anticipated from the implementation of the proposal. This means that if in its decision the Hearings Panel recommends minor changes from what was in the Proposed Plan, a further evaluation can be relatively brief.

6.1 Relevant Section 32AA Matters

Listed below are the recommended changes to the Proposed District Plan with regard to the contaminated land provisions. The following recommended amendments to the Introduction and policies considered relevant for further evaluation under s32AA of the RMA.

- Introduction – clarification and expansion of issues
- Policy 4 – delete
- Policy 6 – replacement of the words “likely future use” with “proposed use”.

6.2 Section 32AA Further Evaluation

The contaminated land section of the original Section 32 report is relevant to this report. The changes proposed are within the scope of the original evaluation findings and do not raise any additional matters of consideration.

I am recommending that the objectives remain as notified. The recommended amendments to the policies, as set out in **Appendix 2**, are considered to be the most appropriate way to achieve these objectives.

The removal of the expectation that contaminated land be remediated on site will mean that the best practical approach is taken on a site-by-site basis. This may on occasions be economically and environmentally beneficial. Other changes are intended to aid in the interpretation of the policies and make for a more user friendly document. Overall the environmental, economic, social or cultural effects anticipated to arise as a consequence of the changes are minor. A detailed assessment or quantification of costs and benefits is not practical or necessary in this instance.

7. CONCLUDING COMMENTS

In preparing the Proposed District Plan, the Council has taken into account its responsibilities in implementing the NES as part of its functions under Section 31 of the RMA. Under the NES territorial authorities are required to prevent or mitigate any adverse effects of the subdivision, development or use of contaminated land.

The Council's responsibilities under Section 31(1)(b)(iia) was not expressed in the RMA until after the District Plan became Operative in 2005. As a result the Operative District Plan did not specifically address the issue of contaminated land as a significant resource management issue. The Proposed District Plan rectifies this by developing objectives and policies which seek to indentify, monitor and manage soil contamination and avoid the creation of new areas of contaminated land and further contamination on existing contaminated sites.

Forty-one submission points and five further submissions were received on the contaminated land provisions of the Proposed District Plan. Twenty-seven of the submission points were in support, 12 were in general support with amendments and two were in opposition.

After analysing the submissions and further submissions I am recommending amendments to the Introduction, Issue 2 and Polices 1, 3, and 6 of the contaminated land provision, and deletion of Policy 4. I am also recommending a minor change to Policy 10 of the Subdivision provisions which relate to contaminated land. The recommended amendments to the Introduction, Issues and Policies are set out in **Appendix 2** and are considered only minor changes. Policy 4 as notified is unclear and overlooks the complexity of contaminants and the need for site specific assessment. I consider that Policy 6 sufficiently provides for management of contaminated land and that policy 4 is superfluous.

It is my opinion that the contaminated land provisions and recommended amendments to the introduction, issues and policies achieve the purpose of Part 2 of the RMA and meet its functions under Section 31.

APPENDIX 1 – Recommendations on Submissions

Submitter	Submission	Recommendation
GENERAL		
117.2 Southern District Health Board	<p>The submitter agrees with the identified issues, objectives, policies and rules, and in particular supports Policies 1, 3 and 5.</p> <p>DECISION SOUGHT: Retain.</p>	<p>Accept in part</p> <p>Minor amendments are recommended to Issue 2 and Policies 1, 3 and 6. See recommendations outlined below in submissions 65.11, 65.12, 65.13 and 88.60.</p> <p>It is also recommended that Policy 4 be deleted. See reasons set out in submission 13.12.</p>
18.40 Environment Southland	<p>The submitter supports the issues, objectives, policies and methods of implementation</p> <p>DECISION SOUGHT: Retain.</p>	<p>Accept in part</p> <p>Minor amendments are recommended to Issue 2 and Policies 1, 3 and 6. See recommendations outlined below in submissions 65.11, 65.12, 65.13 and 88.60.</p> <p>It is also recommended that Policy 4 be deleted. See reasons set out in submission 13.12.</p>
105.1 ICC – Environmental Health and Compliance Services	<p>The submitter supports the issues, objectives and policies and notes the reference to the NES for Assessing and Managing Contaminated Sites in the Soil to Protect Human Health.</p> <p>DECISION SOUGHT:</p> <ol style="list-style-type: none"> a. The Council works in partnership with Environment Southland to have a common database for collection and data sharing of information. b. Section 2.5.2: Objective 2 - the information on the database should be made available and forwarded to the Council and passed on to the public. 	<p>Accept in part.</p> <p>The submitter’s recommendation to create a common database with ES is provided for under Method 1.</p> <p>The submitter’s suggestion that information from the database be passed on to the public is noted. Method 2 provides for the provision of advice and Council held information to landowners and occupiers. This method is considered sufficient to ensure any information is made available to the public.</p>

Submitter	Submission	Recommendation
	c. A more specific reference and detail relating to what is defined as a permitted activity, controlled activity, restricted activity, discretionary activity for a contaminated land activity in the Proposed District Plan.	Specific details as to what is defined as a permitted activity, controlled activity, restricted discretionary activity or discretionary activity can be found in the NES contained in Appendix XII. It is not considered necessary to repeat this information in the contaminated land note.
SECTION TWO ISSUES, OBJECTIVES AND POLICIES		
General		
87.7 Transpower NZ Ltd	The submitter supports the issues, objectives and policies as notified. DECISION SOUGHT: Retain.	Accept in part Minor amendments are recommended to Issue 2 and Policies 1, 3 and 6. See recommendations outlined below in submissions 65.11, 65.12, 65.13 and 88.60. It is also recommended that Policy 4 be deleted. See reasons set out in submission 13.12.
2.5 Contaminated Land		
2.5 Introduction		
18.39 Environment Southland	The submitter believes Section 2.5 does not provide a clear distinction between land contamination and contaminated land, which has a high threshold of having to have “significant adverse effects” under the RMA. They suggest it would be helpful to plan users to highlight the link between HAIL sites and the NES and the RMA, which establishes shared functions relating to contaminated land. It should also clarify the reason for need for co-operation with Environment Southland over the collection and sharing of information. The submitter believes it would also be helpful to highlight the SAHS register held by Environment Southland.	Accept in part. The following recommendations of the submitter are accepted: ➤ To include the link between Hail Sites, the NES, and the RMA in the introduction. It is agreed that it would be useful for the users of the Plan to include this connection. ➤ The recommended amendments to the first and second sentence in the first paragraph. The changes suggested are considered to help clarify the issue. ➤ The amendment to remove reference to the regional authority in the second paragraph. Regulation 4(b) of the NES states that the NES does not deal with regional council functions under section 30 of the Act.

Submitter	Submission	Recommendation
	<p>DECISION SOUGHT: That Section 2.5 of the District Plan be amended as follows [or similar]:</p> <p>2.5 CONTAMINATED LAND</p> <p>New Zealand has a legacy of <u>land</u> contamination that needs to be identified and addressed. This <u>issue</u> has been identified by the Ministry for the Environment as <u>being one an issue</u> of national importance. The Ministry has produced a list of Hazardous Activities and Industries (HAIL) likely to cause <u>have a higher risk of</u> land contamination resulting from hazardous substance use, storage, or disposal.</p> <p>The Council is required to implement the National Environmental Standard for Assessing and Managing Contaminants in the Soil to Protect Human Health which establishes obligations on land owners and regional and territorial authorities.</p> <p>Territorial authorities are required to:</p> <p>(A) Prevent or mitigate any adverse effects of the storage, use, disposal or transportation of hazardous substances, and</p> <p>(B) Prevent or mitigate any adverse effects of the subdivision, development or use of contaminated land.</p> <p>There is a lack of information, and therefore monitoring and management, of contaminated land <u>contamination</u> in Invercargill. Because of its history and role as a rural servicing city, every site that is being, or at some stage is likely to have been, used for anything other than residential activity, or most commercial activities is potentially a HAIL site. There will be cooperation with Environment Southland over the collection and sharing of information <u>on HAIL sites</u>. <u>The Regional</u></p>	<p>➤ The amendments to the second and third sentence. It is considered that the changes will be of value to the user of the Plan.</p> <p>The following recommendations of the submitter are rejected:</p> <p>➤ The amended wording in the third sentence. The Ministry for the Environment guidance describes the HAIL as “<i>activities and industries that are likely to <u>cause</u> land contamination resulting from hazardous substance use storage, or disposal</i>”. The submitter provides no reasoning for amending the wording to “<i>have a higher risk of</i>” and is therefore rejected.</p> <p>➤ The amendment in the first sentence of the fourth paragraph. The primary focus of these provisions is on the monitoring and management of contaminated land rather than land contamination.</p> <p>➤ The reason for co-operation with Environment Southland is addressed in the Explanation of Policy 2 and the SAHS register is discussed in Policy 1. It is not considered necessary to repeat this information in the Introduction.</p> <p>Amend Introduction as follows:</p> <p>“New Zealand has a legacy of <u>land</u> contamination that needs to be identified and addressed. This <u>issue</u> has been identified by the Ministry for the Environment as being one an issue of national importance. The Ministry has produced a list of Hazardous Activities and Industries (HAIL) likely to cause land contamination resulting from hazardous substance use, storage, or disposal.</p> <p><u>Under Section 44A of the Resource Management Act 1991</u> the Council is required to implement the National Environmental Standard for Assessing and Managing Contaminants in the Soil to Protect Human Health which establishes obligations on land owners and</p>

Submitter	Submission	Recommendation
	<p><u>Council also has discharges rules relating to land contamination.</u></p>	<p><u>regional and territorial authorities. The NES regulations apply when a person wants to do one of five activities described in Regulation 5 (2) to (6) of the NES, on a piece of land that has, currently or previously, had a HAIL activity or industry undertaken on it.</u></p> <p><u>Under Section 31 of the RMA territorial authorities are required to:</u></p> <p>(A) Prevent or mitigate any adverse effects of the storage, use, disposal or transportation of hazardous substances, and</p> <p>(B) Prevent or mitigate any adverse effects of the subdivision, development or use of contaminated land.</p> <p>There is a lack of information, and therefore monitoring and management, of contaminated land in Invercargill. Because of its history and role as a rural servicing city, every site that is being, or at some stage is likely to have been, used for anything other than residential activity, or most commercial activities is potentially a HAIL site. There will be cooperation with Environment Southland over the collection and sharing of information <u>on HAIL sites. The Regional Council also has discharges rules relating to land contamination.</u></p>
<p>FS34.1 ICC – Environmental Health and Compliance Services</p>	<p><i>Support submission 18.39</i></p> <p>The further submitter considers that that the submission highlights the shared functions relating to a contaminated land and the need to share information of contaminated sites with the Regional Council.</p> <p>The further submitter also considers it reasonable to mention the link between HAIL sites, the NES and the RMA which establishes the shared functions of agencies when relating to a contaminated land in the proposed District Plan</p>	<p>See recommendation and reasons set out above in submission 18.39.</p>

Submitter	Submission	Recommendation
65.10 ICC Environmental and Planning Services	<p>The submitter supports the introduction with minor amendment to typo.</p> <p>DECISION SOUGHT: Amend the last sentence of the Introduction to read: “There will <u>need to</u> be cooperation with ES over the collection and sharing of information”.</p>	<p>Accept</p> <p>Amend the last sentence of the introduction as follows:</p> <p>“There will <u>need to</u> be cooperation with ES over the collection and sharing of information”</p>
2.5.1 Issues		
77.13 Te Runaka o Waihopai and Te Runaka o Awarua	<p>The submitter supports references to human health within the issues.</p> <p>DECISION SOUGHT: Retain the issues.</p>	<p>Accept</p>
65.11 ICC Environmental and Planning Services	<p>The submitter supports Issue 2 with an amendment to typo.</p> <p>DECISION SOUGHT: Amend Issue 2 to read: “Subdivision, ground disturbance, use and development of contaminated land can have adverse effects on human health.”</p>	<p>Accept</p> <p>Amend Issue 2 as follows:</p> <p>“Subdivision, ground disturbance, use and development of contaminated land can have adverse effects on human health.”</p>
2.5.2 Objectives		
13.9 Z Energy Limited, BP Oil NZ Ltd, Mobil Oil NZ Ltd	<p>The submitter opposes Objectives 1 and 3.</p> <p>The submitter considers that it is unrealistic to expect to avoid the creation of new areas of contamination and believe that the objectives should focus on managing the risk of contamination.</p>	<p>Reject</p> <p>Avoidance of land contamination is ultimately what the Council are aiming to achieve. The Objectives as notified give effect to the objectives and policies (Objective 8.4 and Policy 8.5) of the Operative RPS, which seek to avoid contamination of soils. This is in accordance with Section 75 of the RMA, which requires a District Plan to give effect to an operative RPS.</p>

Submitter	Submission	Recommendation
	<p>They consider it more realistic to identify and manage contaminated land (as provided in Objectives 2 and 4) and manage the use and storage of hazardous substances as part of the hazardous substances provisions. They consider this to already be provided for in Section 2.7.</p> <p>DECISION SOUGHT: Delete Objectives 1 and 3, and rely on the policy provisions in the hazardous substances section of the policy framework (Section 2.7).</p>	<p>The hazardous substances provisions support the contaminated land provision, but should not replace them. Objectives 1 and 3 set a more direct and clear goal for avoidance of contamination, than what is provided in the hazardous substances provisions, and should therefore remain.</p>
<p>FS2.22 NZAS Ltd</p>	<p>Support submission 13.9</p> <p>The further submitter agrees that it is unrealistic to expect that new or further contaminated land can be avoided. However, the further submitter considers that any further contamination should be contained onsite and be appropriately managed</p> <p>DECISION SOUGHT; Amend Objectives 1 and 3 to recognise that the creation of contaminated land, or further contaminated land should be “avoided <i>where possible</i>”</p>	<p>Reject</p> <p>See recommendation and reasons outlined above in submission 13.9.</p>
<p>88.55 Federated Farmers</p>	<p>The submitter supports Objectives 1 and 3. The submitter considers these objectives can best be achieved through the provision of timely and accurate advice to landowners.</p> <p>DECISION SOUGHT: Adopt the objectives as proposed.</p>	<p>Accept</p>
<p>13.10 Z Energy Limited, BP Oil NZ Ltd, Mobil Oil NZ Ltd</p>	<p>The submitter supports Objectives 2 and 4.</p> <p>DECISION SOUGHT: Retain objectives.</p>	<p>Accept</p>

Submitter	Submission	Recommendation
<p>88.56 Federated Farmers</p>	<p>The submitter supports Objective 2 in part. The submitter is concerned that the extent of the problem of contaminated land in rural Invercargill is currently unknown, and the wording of the objective may be read as a commitment to actively identify suspected hazardous sites. The labelling of “contaminated land” can have negative connotations, both in terms of the value of the property and the value of production from that property.</p> <p>The submitter considers that the NES does not require territorial authorities to actively identify land affected, so if this is not the intent of the policy Council could clarify this by removal of the word “identified” from the objective.</p> <p>The submitter believes that it is only really the risk of the land use activity itself that poses the risk to human health or the environment and if this Objective were interpreted widely then investigations and monitoring may be required in a number of sites where there is very little risk.</p> <p>DECISION SOUGHT: Amend the wording of the objective as follows:</p> <p>“Objective 2: Land that is affected by soil contamination is identified, monitored and managed.”</p>	<p>Reject</p> <p>It is not the intent of the Objective for the Council to actively investigate sites. Under the NES it is the responsibility of the individual, wishing to undertake an activity described in Regulation 5 to identify whether or not their piece of land has, currently or previously, had an activity or industry described on the HAIL undertaken on it. If this is established then the proposal will need to be assessed against the NES regulations which may involve soil testing.</p> <p>Under Section 31 of the RMA It is a function of the territorial authority to prevent or mitigate any adverse effects of the development, subdivision or use of contaminated land. In order to carry out this function, land that is contaminated or potentially contaminated needs to be identified. This will be done through the implementation of the NES and through collaboration and sharing of information with Environment Southland and other agencies on contamination issues.</p>

Submitter	Submission	Recommendation
FS30.3 Southern District Health Board	<p>Oppose submission 88.56 The further submitter considers that the Objective is based on the significant resource management issues of land contamination not being adequately identified. Identifying historical, current and further HAIL sites is considered to be an integral part in the process that manages potential risk to community health and the environment. The further submitter considers that transparency of information enables individuals and businesses to make informed decisions.</p> <p>DECISION SOUGHT: Retain the word “identified” in Objective 2.</p>	<p>Accept</p> <p>At present there is a lack of information on contaminated land within the Invercargill City district. I agree with the submitter that the identification of past and present HAIL sites is essential to manage potential risk to the community and the environment.</p>
90.3 H W Richardson Group Ltd	<p>The submitter supports objective 4. The submitter considers that it is appropriate to ensure that potential adverse effects associated with contaminated land are remedied or mitigated.</p> <p>DECISION SOUGHT: Retain Objective 4.</p>	<p>Accept</p>
2.5.3 Policies		
13.11 Z Energy Ltd, BP Oil NZ Ltd, Mobil Oil NZ Ltd	<p>The submitter supports policies 1 – 3 and 5.</p> <p>DECISION SOUGHT: Retain these policies.</p>	<p>Accept with amendment</p> <p>Minor amendments are proposed to Policies 1 and 3 (See recommendations outlined below in submissions 65.12 and 65.13). The amendments are minor changes which do not change the intent of the policies.</p>

Submitter	Submission	Recommendation
65.12 ICC Environmental and Planning Services	Support with amendment to typo DECISION SOUGHT: Amend Policy 1 to read: “To promote public awareness <u>and</u> understanding, and to make available ...”	Accept Amend Policy 1 as follows: “To promote public awareness <u>and</u> understanding, and to make available ...”
88.57 Federated Farmers	The submitter supports Policy 1. DECISION SOUGHT: Adopt the Policy as proposed.	Accept with amendment A minor amendment to Policy 1 is recommended (see recommendation outlined above in submission 65.12). The amendment does not change the intent of the policy.
117.3 Southern District Health Board	The submitter supports Policy 1. They believe that making information available and the sharing of information allows for transparency of historic/arising HAIL sites and contaminated land. This process is important for promote future monitoring and management allowing for sustainable use of land while avoiding adverse health effects on humans. DECISION SOUGHT: Support Policy 1 but also recommend that mapping of HAIL sites and contaminated land is included within the District Plan	Accept in part The submitter’s suggestion to create an electronic database has already been developed by Environment Southland, and is available to the public on Environment Southland’s website. The submitter’s suggestion to map the HAIL sites on the District Planning Maps is not considered to be a feasible option at the current time. It would be misleading and inaccurate to map only some of the districts HAIL sites, as it does not provide a full or accurate picture of the extent of the issue. Further, because information on contaminated sites is continually growing, it is not considered appropriate to include them on the District Planning Maps which are only current on the date that they are published. The effect on property values and marketability of a site identified as being on the HAIL must also be considered

Submitter	Submission	Recommendation
		The Proposed District Plan provides for advice to land owners and occupiers on information held by the Council in Method 2. This method, along with Policies 1 and 2 are considered sufficient to ensure information on contaminated sites is made available to the public.
88.58 Federated Farmers	<p>The submitter supports Policy 2. The submitter believes there is a need for a district and region-wide data base to which all authorities have on-line access and to which all can contribute as information comes to hand, and to record and map historical patterns of land use and garnish greater information so that current and future landowners can make informed decisions on land use options.</p> <p>DECISION SOUGHT: Adopt the Policy as proposed.</p>	<p>Accept</p> <p>The submitter's suggestion to create an electronic database has already been developed by Environment Southland, and is available to the public on Environment Southland's website. The database holds a record of Sites Associated with Hazardous Substances and is referred to as the SAHS Register. The SAHS Register is used to manage information about properties in the Southland region that have been used for activities involving hazardous substances, and which have a potential for contamination</p>
65.13 ICC Environmental and Planning Services	<p>The submitter supports Policy 3 with minor amendment to include the date for the NES.</p> <p>DECISION SOUGHT: Amend reference to the NES in both the policy and the explanation to read: "National Environmental Standard for Assessing and Managing Contaminant in Soil to Protect Human Health <u>2011</u>"</p>	<p>Accept</p> <p>Amend Policy 3 as follows:</p> <p>"National Environmental Standard for Assessing and Managing Contaminant in Soil to Protect Human Health <u>2011</u>"</p>
77.14 Te Runaka o Waihopai and Te Runaka o Awarua	<p>The submitter supports Policy 3.</p> <p>DECISION SOUGHT: Retain Policy 3.</p>	<p>Accept with amendment</p> <p>A minor amendment is recommended to Policy 3 (see recommendation of submission 65.13). The amendment does not change the intent of the policy.</p>

Submitter	Submission	Recommendation
<p>13.12 Z Energy Ltd, BP Oil NZ Ltd, Mobil Oil NZ Ltd</p>	<p>The submitter opposes Policy 4. The submitter believes the policy promotes the excavation of contaminated land (and its off-site disposal) and then, as a second method, the containment of contaminated material on site. They do not consider that it is appropriate to establish a hierarchy of management approaches and that the best practical option should be assessed and adopted on a case by case basis. Further, the submitter considers that the management of contamination on site may not always be the best practical option.</p> <p>DECISION SOUGHT: Delete Policy 4.</p>	<p>Accept</p> <p>The submitter's comments are accepted. The Policy is unclear and overlooks the complexity of contaminants and the need for site specific assessment. It is considered that Policy 6 sufficiently provides for management of contaminated land.</p> <p>It is recommended that Policy 4 is deleted.</p>
<p>FS2.23 NZAS Ltd</p>	<p><i>Oppose submission 13.12</i></p> <p>The further submitter supports Policy 4, as set out in submission 71.12.</p> <p>The further submitter notes that the smelter uses hazardous substances which could result in contamination if not used or disposed of properly. Where it is disposed of, it is controlled and monitored.</p> <p>The further submitter acknowledges that in some cases on-site contamination may not be the "best practicable option" to address contamination. If this is correct then the further submitter suggests that Policy 4 be amended to acknowledge this rather than be deleted.</p> <p>DECISION SOUGHT: Retain Policy 4 as notified.</p>	<p>Reject</p> <p>See reasons outlined above in submission 13.12.</p> <p>The intent of Policy 4 is to favour on site containment of already contaminated material, not for on site containment of new areas of contamination, as interpreted by the further submitter.</p> <p>This highlights that the policy is unclear which supports its deletion.</p>

Submitter	Submission	Recommendation
71.12 NZAS Ltd	<p>The submitter support Policy 4. Some of the submitter's wastes, that are not reused, are disposed of on-site at their landfill which is controlled and monitored.</p> <p>DECISION SOUGHT: Retain Policy 4 as notified.</p>	<p>Reject</p> <p>See reasons outlined above in submission FS2.23.</p>
90.4 H W Richardson Group Ltd	<p>Support in part Policy 4. The submitter considers it appropriate to consider "best practicable means" approach to addressing issues associated with contaminated land.</p> <p>DECISION SOUGHT: Retain Policy 4.</p>	<p>Reject</p> <p>Contaminants vary widely in complexity; physical and chemical characteristics and the potential risk that they may pose to human health and the environment. The best practical means approach to addressing contaminated land should therefore be assessed on a site by site basis.</p> <p>Delete Policy 4.</p>
77.15 Te Runaka o Waihopai and Te Runaka o Awarua	<p>The submitter supports Policy 5.</p> <p>DECISION SOUGHT: Retain Policy 5.</p>	<p>Accept</p>
88.59 Federated Farmers	<p>The submitter supports Policy 5.</p> <p>DECISION SOUGHT: Adopt Policy 5 as notified.</p>	<p>Accept</p>

Submitter	Submission	Recommendation
<p>13.13 Z Energy Limited, BP Oil NZ Ltd, Mobil Oil NZ Ltd</p>	<p>The submitter supports Policy 6 subject to an amendment.</p> <p>The submitter considers that the role of the Council in relation to the management of contaminated land is limited to human health effects.</p> <p>DECISION SOUGHT: Amend Policy 6 as follows: “<u>With regard to human health effects, to determine appropriate management action...</u>” ... 4. The potential for adverse environmental or public health effects offsite or downstream...”</p>	<p>Reject</p> <p>Contamination can have sustaining damaging effects on the environment which are far reaching. It is therefore imperative that measures are put in place to address all aspects of contamination so as to avoid adverse effects on the environment and human health.</p> <p>I do not agree with the submitter that the Council's role in relation to the management of contaminated land is limited to human health. It is agreed that the NES is limited to the effects of contaminated land on human health but that does not mean that policies addressing the wider issues of contamination, cannot be developed.</p> <p>The Council has a duty under Section 74 of the RMA to prepare its District Plan in accordance with Part 2 of the RMA. It is considered that the policy provides for the part 2 matters and meets the purpose of the Act.</p>
<p>71.13 NZAS Ltd</p>	<p>The submitter supports Policy 6. Some of the submitter's wastes, that are not reused, are disposed of on site at their landfill which is controlled and monitored.</p> <p>DECISION SOUGHT: Retain Policy 6.</p>	<p>Accept with amendment</p> <p>An amendment to Policy 6 is recommended (see recommendation of submission 88.60 below). The amendment is considered to clarify the intent of the Policy.</p>
<p>88.60 Federated Farmers</p>	<p>The submitter supports Policy 6 but questions the extent to which “likely future use of land” should be considered, particularly as Council will have clear ability to address issues upon any change of land use.</p> <p>DECISION SOUGHT: Amend the wording of the policy as follows:</p>	<p>Accept in part.</p> <p>A change in land use that is likely to harm human health is one of the five activities that trigger an assessment under the NES. The submitters point is therefore accepted. However, it is noted that the proposed use of the site is relevant and should be considered when determining appropriate management action for contaminated land. It is therefore recommended that the Policy be amended to replace “likely future use of the site” with “proposed use of the site”.</p>

Submitter	Submission	Recommendation
	To determine appropriate management action for contaminated land on the basis of: ... (D) Existing and likely future use of the site and surrounding land use.	Amend Policy 6 as follows: (D) Existing and likely future <u>proposed</u> use of the site and surrounding land use.
2.5.4 Methods of Implementation		
77.16 Te Runaka o Waihopai and Te Runaka o Awarua	The Submitter supports the methods of implementation. DECISION SOUGHT: Retain all.	Accept.
88.61 Federated Farmers	The submitter supports the methods of implementation. They consider that the best approach to dealing with contaminated land is through the provision of information to landowners and land occupiers. DECISION SOUGHT: Adopt methods as notified.	Accept.
2.14 Subdivision		
Policy 10 Contaminated Land		
65.38 ICC Environmental and Planning Services	Support in part subject to amendment. The submitter considers this Policy should be reworded to be consistent in terminology with the other policies in the Plan. DECISION SOUGHT Amend Policy 10 as follows: “Subdivision design to have regard to any history of site contamination—To have regard to any history of site contamination as part of the subdivision process”	Accept Amend Policy 10 as follows: <u>“Subdivision design to have regard to any history of site contamination—To have regard to any history of site contamination as part of the subdivision process”</u>

Submitter	Submission	Recommendation
77.43 Te Runaka o Waihopai and Te Runaka o Awarua	Support. DECISION SOUGHT Retain.	Accept with amendment See recommendation set out above in submission 65.38. The amendment does not change the intent of the policy.
88.13 Federated Farmers	Support. The submitter considers addressing any concerns regarding land contamination at the time of subdivision or a change in land use is a more useful approach than mapping potentially contaminated land where there are no identified adverse effects arising from the current land use. DECISION SOUGHT Adopt the Policy as proposed.	Accept with amendment See recommendation set out above in submission 65.38. The amendment does not change the intent of the policy.
SECTION 3.3 RULES		
13.14 Z Energy Limited, BP Oil NZ Ltd, Mobil Oil NZ Ltd	The submitter supports Rule 3.3. DECISION SOUGHT: Retain the note.	Accept
88.78 Federated Farmers	The submitter supports Rule 3.3 DECISION SOUGHT: Adopt the rule as notified.	Accept

Submitter	Submission	Recommendation
117.4 Southern District Health Board	<p>The submitter believes that the National Environmental Standard for Assessing and Managing Contaminants in Soil to protect Human Health 2011 should be cross referenced to Soil, Minerals and Earthworks.</p> <p>DECISION SOUGHT: Cross reference the NES for Assessing and Managing Contaminants in Soil to protect Human Health 2011 to Soil, Minerals and Earthworks</p>	<p>Cross referencing has not been included in the Plan. The way in which the Plan has been drafted means that all of the District Wide Rules must be complied with, as well as the zone specific rules. This means that the user of the Plan needs to look at the entire document and not just one rule in isolation. That said, the comment is noted and issues of formatting may be revisited at a later point by the hearings committee prior to issuing a decision. The submitter's submission will be revisited at this time.</p>
24.60 South Port NZ Ltd	<p>The submitter supports Rule 3.3.</p> <p>DECISION SOUGHT: Retain the note.</p>	Accept
87.42 Transpower NZ Ltd	<p>The submitter supports Rule 3.3.</p> <p>DECISION SOUGHT: Retain the note as notified.</p>	Accept
SECTION FOUR DEFINITIONS		
13.8 Z Energy Limited, BP Oil NZ Ltd, Mobil Oil NZ Ltd	<p>The submitter supports the definition of "contaminated land" as notified.</p> <p>DECISION SOUGHT: Retain without modifications,</p>	Accept
Appendix XII NES For Assessing and Managing Contaminants in Soil to Protect Human Health		
13.15 Z Energy Limited, BP Oil NZ Ltd, Mobil Oil NZ Ltd	<p>The submitter supports inclusion of the NES in Appendix XII.</p> <p>DECISION SOUGHT: Retain.</p>	Accept

Submitter	Submission	Recommendation
<p>65.126 ICC Environmental and Planning Services</p>	<p>The submitter considers that it would be useful to include the HAIL in the District Plan</p> <p>DECISION SOUGHT: Include the HAIL list in the Appendix.</p>	<p>Reject</p> <p>The NES defines the “HAIL” as the current edition of the Hazardous Activities and Industries List. Users of the HAIL should therefore always refer to the current issue of the HAIL which is published on the Ministry for the Environment’s website.</p> <p>Method 2 of the contaminated land provisions provides for advice to landowners and occupiers on information held by the Council. I consider that this will be sufficient to ensure that the public are informed on where they can find the current issue of the HAIL.</p>
<p>FS2.47 NZAS Ltd</p>	<p>Oppose submission 65.126</p> <p>The further submitter opposes the inclusion of the HAIL list within the District Plan as it is a “living document” that will be updated as further HAIL sites are identified. The further submitter considers that it would be impractical and unnecessary for the Proposed Plan to continually be updated to reflect any changes to the list.</p>	<p>Accept</p>

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APPENDIX 2 - RECOMMENDED CHANGES TO THE PROPOSED DISTRICT PLAN

(Underline indicates recommended additions, strikethrough indicates recommended deletions.)

SECTION TWO ISSUES, OBJECTIVES AND POLICIES

2.5 Contaminated Land

Introduction

New Zealand has a legacy of land contamination that needs to be identified and addressed. This issue has been identified by the Ministry for the Environment as being one ~~an issue~~ of national importance. The Ministry has produced a list of Hazardous Activities and Industries (HAIL) likely to cause land contamination resulting from hazardous substance use, storage, or disposal.

Under Section 44A of the Resource Management Act 1991 the Council is required to implement the National Environmental Standard for Assessing and Managing Contaminants in the Soil to Protect Human Health² which establishes obligations on land owners and ~~regional and territorial~~ authorities. The NES regulations apply when a person wants to do one of five activities described in Regulation 5 (2) to (6) of the NES, on a piece of land that has, currently or previously, had a HAIL activity or industry undertaken on it.

Under Section 31 of the RMA territorial authorities are required to:

- (A) Prevent or mitigate any adverse effects of the storage, use, disposal or transportation of hazardous substances, and
- (B) Prevent or mitigate any adverse effects of the subdivision, development or use of contaminated land.

There is a lack of information, and therefore monitoring and management, of contaminated land in Invercargill. Because of its history and role as a rural servicing city, every site that is being, or at some stage is likely to have been, used for anything other than residential activity, or most commercial activities is potentially a HAIL site. There will be cooperation with Environment Southland over the collection and sharing of information on HAIL sites. The Regional Council also has discharges rules relating to land contamination.

2.5.1 Issues

Issue 1 (pg 2-13) - No Change

Issue 2 (pg 2 – 13)

Subdivision, ground disturbance, use and development of contaminated land can have adverse effects on human health.

2.5.2 Objectives

Objective 1 (pg 2 – 14) – No change

Objective 2 (pg 2 – 14) – No change

Objective 3 (pg 2 – 14) – No change

Objective 4 (pg 2 – 14) – No change

2.5.3 Policies

Policy 1 Public awareness and information

To promote public awareness and understanding, and to make available to the public information on sites known to be associated with hazardous substances (SAHS).

Explanation: The potential exists for contamination on any site where hazardous substances have been stored or used. In Invercargill, such sites may be identified either because:

- (A) At some stage they have been used for an activity on the HAIL list published by the Ministry for the Environment, or
- (B) The site has been specifically identified by Environment Southland as a site associated with hazardous substances (SAHS).

~~Where contamination exists, the best approach is normally to first contain it and second to carry out remedial work aimed at isolating the contamination from the ongoing use of the site. In most cases a practical solution is possible.~~ Development (or redevelopment) of a site normally involves shifting quantities of soil and digging holes which can expose the contamination. It is much easier to address contamination issues before development or redevelopment takes place. It is in everyone's interest that any contamination issues are known at the planning stage of any development.

Policy 2 Collaboration (pg 2 – 14) – No change

Explanation: No change

Policy 3 National Environmental Standard (pg 2-14)

To implement and require compliance with the provisions and requirements of the National Environmental Standard for Assessing and Managing Contaminants in the Soil to Protect Human Health 2011.

Explanation: No change

Policy 4 On-site containment (pg 2-15) - Delete

Explanation: Delete

Policy 5 Human Health (pg 2- 15) - No change

Explanation: ~~Contaminated land can, and in many cases should, continue to be used but the overall consideration is to prevent the contamination getting worse.~~ If land is contaminated or potentially contaminated then it must be shown to be safe for its intended use, subdivision and/or development.

Policy 6 Management: To determine appropriate management action for contaminated land on the basis of:

- (A) The type of contaminants involved.
- (B) The degree of contamination.
- (C) The availability and practicality of appropriate technology for monitoring or remediation.
- (D) Existing and ~~likely future~~ proposed use of the site and surrounding land use.
- (E) National standards or guidelines.
- (F) The potential for adverse environmental or public health effects offsite or downstream.

Explanation: No change

2.5.4 Methods of Implementation

Method 1 (pg 2 – 15) – No change

Method 2 (pg 2 – 15) – No change

Method 3 (pg 2 – 15)

Implementing regulatory methods required by the National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health 2011.

2.14 Subdivision

Policy 10 Contaminated Land (pg 2-53)

~~Subdivision design to have regard to any history of site contamination~~ To have regard to any history of site contamination as part of the subdivision process”

SECTION THREE – RULES

Rule 3.3 Contaminated Land (pg 3-3)

Note 3.3.1- No change

SECTION FOUR – DEFINITIONS

Contaminated Land (pg 4-4) – No change

SECTION FIVE – APPENDICES

Appendix XII (pg 5-97) – No change