

Hazards and Risks - Contaminated Land

Section 32 Report for the Proposed Waitomo District Plan

Section 32 Report – Hazards and Risks – Contaminated Land

SUMMARY OF ISSUES	RESOURCE MANAGEMENT ACT 1991	NATIONAL DIRECTION	REGIONAL POLICY STATEMENTS	IWI MANAGEMENT PLANS CONT...
<p>The Contaminated Land Chapter addresses the following issues:</p> <ul style="list-style-type: none"> The use and development of contaminated land has the potential to cause adverse effects to human health and to the environment. The use and development of contaminated land has been identified as a resource management issue to be addressed in the District Plan, and by the Resource Management (National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health) Regulations 2011 (NESC). Land that has been contaminated by previous land use practices can present a risk to the health and safety of people and the environment if that risk is not appropriately managed. A District Council's functions under section 31(1)(b)(iii) of the RMA requires the prevention or mitigation of the adverse effects of the development, subdivision, or use of contaminated land. The issue is recognised at a national level through the NESC. 	<p>Section 5 RMA The identification and management of land that is contaminated or potentially contaminated is an important component of sustainable management. The potential effects from people living on or using land that is contaminated are significant as it can affect people's health and wellbeing.</p> <p>Section 6 RMA There are no section 6 matters relevant to this topic.</p> <p>Section 7 RMA There are no section 7 matters relevant to this topic.</p> <p>Section 8 RMA There are no section 8 matters relevant to this topic.</p>	<p>There are six National Policy Statements (NPSs) currently in place:</p> <ul style="list-style-type: none"> New Zealand Coastal Policy Statement 2010 NPS for Electricity Transmission 2008 NPS for Renewable Electricity Generation 2011 NPS for Freshwater Management 2020 NPS on Urban Development 2020 NPS for Highly Productive Land 2022 <p>It is considered that none of the 6 NPSs listed above are relevant to this Chapter.</p> <p>There are also 8 National Environmental Standards (NESs) currently in place:</p> <ul style="list-style-type: none"> NES for Air Quality 2004 NES for Sources of Human Drinking Water 2007 NES for Telecommunication Facilities 2016 NES for Electricity Transmission Activities 2009 NES for Assessing and Managing Contaminants in Soil to Protect Human Health 2011 NES for Plantation Forestry 2017 NES for Freshwater 2020 NES for Storing Tyres Outdoors 2021 <p>The only relevant NES is the NESC. This standard regulates activities proposing to remove or replace a fuel storage system, sample or disturb soil, subdivide land or change the use of that land where the land is known to be used, or have been used, by potentially contaminating activities and industries listed in the Ministry for the Environment's Hazardous Activities and Industries List (HAIL). Where an applicant proposes to undertake one or more of those activities, an assessment of the activity under Regulations 8 to 11 of the NESC are applicable to that application. Rules permitting the use or remediation of that land may be satisfied, subject to conditions.</p> <p>Relevant case law considered It is considered that there is no case law relevant to the section 32 evaluation for this topic.</p>	<p>The Waikato Regional Policy Statement (WRPS) contains specific objectives and policies for contaminated land, specifically through Objective 3.25 Values of Soil and Policy 14.3 Soil Contaminants. That objective and supporting policy is as follows: Objective 3.25 Values of Soil: The soil resource is managed to safeguard its life supporting capacity, for the existing and foreseeable range of uses. Policy 14.3 Soil Contaminants: Ensure that contaminants in soil are minimised and do not cause a reduction in the range of existing and foreseeable uses of the soil resource. Particular attention will be given to the potential for effects on: a) Human health; b) Animal health; c) Suitability of soil for food production; d) Micro-nutrient availability; e) Soil ecology; and f) Groundwater.</p> <p>Specifically, that objective and supporting policy seeks the remediation of contaminated soils as a primary method for the future use and development of those soils to support productive, human health and the health and wellbeing of the environment. The WRPS specifically directs District Plans to include the provisions of the NESC with the suggestion that District Plans should further incorporate an objective and policy framework to support the implementation methods that related to contaminated land under the former WRPS prior to the NESC coming into effect.</p> <p>The WRPS also directs District Plans to support any land zoning changes with the information that identifies contaminated sites and how risks presented by contamination will be managed.</p> <p>The Manawatū-Whanganui One Plan contains specific provisions for contaminated land. Objective 3.5 the Regional Council and Territorial Authorities must work together in a regionally consistent way to:</p> <ol style="list-style-type: none"> minimise the quantity of waste generated in the Region and ensure it is disposed of appropriately, manage adverse effects from the use, storage, disposal and transportation of hazardous substances, and manage adverse effects from contaminated land. <p>Policy 3.14 The Regional Council and Territorial Authorities shall jointly identify priority contaminated land. Priority contaminated land is land that:</p> <ol style="list-style-type: none"> is listed on a register of verified contaminated land held by the Regional Council or a Territorial Authority, or would have been the site of an activity identified on the Hazardous Activities and Industries List (Ministry for the Environment, 2004a), including horticulture and sheep dips, and site investigations have verified that the land is contaminated, and is expected to be subject to a change of land use within the next 10 years that is likely to increase the risks to human health or the environment, including where land is identified for future residential zoning or where a specific development is proposed. 	<p>The Waikato Tainui Environment Management (WTEP) Plan 2018 contains the following provisions relevant to contaminated land:</p> <p>Issue 21.2.6, supporting Objective 21.3.3, Policy 21.3.3.1 and supporting Methods (a) to (d) of the Waikato Tainui Environmental Plan require the management of contaminated land, and where possible its mitigation or remediation, through development of an understanding of the location of contaminated sites, implementation of plans to manage, mitigate or remediate contaminated sites and enforcement of pollution mitigation by the polluter as opposed to the user of the land.</p>

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			<p>Policy 3.15 Where land use changes are likely to increase the risks to human health or the environment from priority contaminated land (as identified under Policy 3-14) the Regional Council and Territorial Authorities must ensure that:</p> <p>(a) the landowner or land developer fully investigates the extent and degree of contamination prior to the granting of consent allowing development (assistance with investigations may be provided by the Regional Council in some cases),</p> <p>(b) land is made suitable for its intended use through an appropriate level of remediation or management (including engineering) controls, and</p> <p>(c) land remains suitable for its intended use through appropriate monitoring of residual contaminant levels and associated risks and through the use of management controls on the activities undertaken on the land.</p>	
<p>OPERATIVE WAITOMO DISTRICT PLAN</p>			<p>IWI MANAGEMENT PLANS</p>	<p>OTHER RELEVANT PLANS OR LEGISLATION</p>
<ul style="list-style-type: none"> Contaminated land is currently subject to the objectives, policies, and methods in Chapter 17 (Hazardous Substances and Contaminated Land) of the ODP. 			<p>The Maniapoto Environment Management Plan (MEMP) 2018 contains the following provisions relevant to contaminated land:</p> <p>Objective 18.3.1, supporting Policy 18.3.1.2 and Action (d) of the Maniapoto Environmental Management Plan seek the management and restoration of contaminated land, including the avoidance of land contamination subject to future land uses.</p> <p>Those strategic matters and provisions that have been specifically given effect or had regard to in this chapter are summarised in Table 5 below. These documents broadly identify the resource management issues for the District and provide the higher-level policy direction to resolve these issues.</p>	<ul style="list-style-type: none"> There are no other plans or legislation relevant to this topic.
<p>SCALE & SIGNIFICANCE s32(1)(c)</p>				<p>STRATEGIC DIRECTION</p>
<p>The assessment is based on eight factors outlined in Ministry for the Environment's guidance on Section 32 reports. Each factor is scored in terms of its scale and significance (where 1 is low and 5 is high).</p> <p>Reason for Change: 2 Problem / Issue: 1 Degree of Shift from Status Quo: 1 Who and How Many Affected, Geographic Scale of Effects: 1 Degree of Impact on or Interest from Maori: 1 Timing and Duration of Effects: 1 Type of Effect: 1 Degree of Risk or Uncertainty: 1</p> <p>Total (out of 40): 9</p>				<p>No objective has been identified.</p>
<p>OBJECTIVE(S) s32(1)(a)</p>				
<p>Relevance - The proposed objective is considered to be effective as it provides guidance when assessing a resource consent under the NESC.</p> <p>Usefulness - The objective provides clarity of what is to be achieved in relation to managing contaminated land when considering a resource consent application under section 104. The objective clearly articulates an outcome and is drafted in plain english and active language.</p> <p>Reasonableness - The objective does not create unjustifiably high costs on the community. Activities involving the disturbance of contaminated land activities are common activities with a long history throughout New Zealand, and well understood adverse effects. The likely impact on people, communities, amenity and other physical resources is likely to be limited provided the requirements of the NESC are complied with.</p> <p>Achievability - Will wholly achieve Council's responsibilities and give effect to the relevant Regional Policy Statements requirements.</p> <p>The proposed objective will achieve the purpose of the RMA as it is a clear statement of intent that defines the expectations for the land use, development and subdivision of contaminated land and is in accordance with the NESC. The objective provides certainty as to the outcomes that are considered to be appropriate under the District Plan provisions.</p>				

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PROVISIONS s32(1)(b)	
EFFICIENCY & EFFECTIVENESS s32(1)(b)(ii), 32(2)(a)(i), s32(2)(a)(ii)	ALTERNATIVES s32(1)(b)(i)
<p>Benefits Anticipated</p> <p><u>Environmental</u> Preliminary and detailed investigation of land within the District enables owners, occupiers and future users, including sensitive activities, to understand the effects of land contamination on the use, subdivision or development of that land and appropriately remediate, manage or contain contamination.</p> <p><u>Economic</u> Management or remediation of contaminated land requires expenditure in the form of preliminary and detailed site investigations and sampling (including reporting), the preparation of remedial action plans, site validation reports and/ or site management plans where deemed to be necessary by a suitably qualified and experienced contaminated land specialist.</p> <p>This expenditure will result in growth of business opportunities within the Waitomo District. The management or remediation of contaminated land allows for land to be utilised for a greater range of activities and potentially allows for further development opportunities for land.</p> <p><u>Social</u> None are considered applicable to this assessment.</p> <p><u>Cultural</u> Remediation of contaminated land may present a beneficial outcome for the maintenance or restoration of the mauri of soils and waterways which were actually or potentially contaminated due to historic land use.</p> <p>Costs Anticipated</p> <p><u>Environmental</u> Remediation of contaminated land where not undertaken in conjunction with best practice, may result in the spread of previously managed or contained contaminants to the environment.</p> <p>There are no indirect environmental costs associated with the proposed provisions.</p> <p><u>Economic</u> Site investigations and sampling of soils, the preparation of preliminary and detailed site investigation reports, remedial action plans and site management plans, including the physical remediation or containment of contamination, has the potential to result in significant upfront costs to the person intending to develop contaminated land.</p> <p><u>Social</u> None are considered applicable to this assessment.</p> <p><u>Cultural</u> None are considered applicable to this assessment.</p>	<p>There are no rules proposed, as the rules for contaminated land are provided in the NESCL</p> <p>Other Methods: No other identified methods.</p>
QUANTIFICATION OF BENEFITS & COSTS s32(2)(b)	
<p>Section 32(2)(b) requires that, where practicable, the benefits and costs of a proposal are to be quantified. Given the assessment of the scale and significance of the proposed provisions, specific quantification of the benefits and costs in this report is considered neither necessary, beneficial nor practicable in relation to this topic.</p>	
EFFICIENCY & EFFECTIVENESS s32(1)(b)(ii), 32(2)(a)(i), s32(2)(a)(ii)	REASONS FOR PROVISIONS s32(1)(b)(iii)
<p>Section 32(1)(b)(ii) assessing the efficiency and effectiveness of the provisions in achieving the objective:</p> <p>This approach effectively addresses the key management issue and aligns the provisions with the purpose and expectations of the NESCL and the RMA. With this approach the council will continue to enforce the NESCL and requiring the remediation of known contaminated land sites. Integrating the contaminated land matters into a specific section of the District Plan and relying on the NESCL is an efficient and effective way to manage the adverse effects of contaminated land.</p>	<p>The provisions appropriately give effect to higher order policy documents, including being consistent with the NESCL and the purpose and principles of the RMA. They are considered to be efficient and effective, as the identified costs are acceptable, while providing benefits, particularly indirect economic and social benefits. They best recognise and provide for the positive effects of contaminated land remediation, while managing their potential adverse environmental effects.</p>