

Appendix A – Officer’s Recommendation Decisions on Submissions - Contaminated Land

Submission point No.	Submitter	Provision	Position	Summary of decision requested	Reasons	Officer Recommendation	Relevant section of s42A Report
283.113	Northpower Limited and Northpower Fibre Limited	General - Contaminated Land	Oppose	DELETE the Contaminated land chapter in its entirety. OR AMEND the provisions contained within the Contaminated land chapter as suggested in other submission points. AND Any further necessary consequential amendments required.	<ul style="list-style-type: none"> The submitter considers the chapter unnecessary given its duplication with the National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health 2011. 	Reject	Topic 1, 2 and 3: Contaminated Land Overview, Objectives, Policies
FS98.33	Fuel Companies (BP, Mobil & Z Energy)	General - Contaminated Land	Oppose in part	DELETE the chapter in its entirety or amend as suggested.	<ul style="list-style-type: none"> The Fuel Companies submission has sought that the contaminated land chapter overview, objectives and policies are deleted and replaced. However, deletion of the chapter in its entirety is not supported as it provides a useful policy framework to support the rules in the National Environmental Standards for Contaminated Soil. 	Reject	Topic 1: Overview and General
283.114	Northpower Limited and Northpower Fibre Limited	CL-O2	Amend	AMEND CL-O2 as follows: Remediation and/or site management of contaminated land contributes: 1. To the health and wellbeing of communities; and <u>or</u> 2. Increased development opportunities for future use and development; <u>or</u> 3. <u>the establishment of new infrastructure, or the operation, maintenance, repair and upgrading of existing infrastructure.</u> AND	<ul style="list-style-type: none"> The submitter supports this objective but seeks the balance recognition of infrastructure alongside new use and development. Electricity infrastructure can be located on historically contaminated land and remediation and site management for new and existing infrastructure should be provided for. 	Reject	Topic 2: Objectives

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				Any further necessary consequential amendments required.			
FS98.34	Fuel Companies (BP, Mobil & Z Energy)	CL-O2	Oppose in part	AMEND CL-02 in include reference to infrastructure.	<ul style="list-style-type: none"> For the reason noted in the Fuel Companies submission, the objective should be deleted and replaced to focus on Council's responsibility to protect human health associated with contaminated land. 	Reject	Topic 2: Objectives
283.115	Northpower Limited and Northpower Fibre Limited	CL-P1	Support	RETAIN CL-P1 as notified.	<ul style="list-style-type: none"> The submitter supports this policy. 	Accept	Topic 3: Contaminated Land Policies
FS98.35	Fuel Companies (BP, Mobil & Z Energy)	CL-P1	Oppose in part	RETAIN CL-P1 as notified.	<ul style="list-style-type: none"> For the reason noted in the Fuel Companies submission, the policy should be deleted and replaced to better align with the National Environmental Standards for Contaminated Soil and Ministry for the Environment (MfE) Contaminated Land Guidelines. 	Reject	Topic 3: Policies
283.116	Northpower Limited and Northpower Fibre Limited	CL-P2	Amend	<p>AMEND CL-P2 as follows: “Unless for the purpose of remediation or for the operational or functional need of new or existing infrastructure, discourage the disturbance of contaminated land, where the level, type and toxicity of the contamination could adversely affect human health and safety and the environment.” AND</p> <p>Any further necessary consequential amendments required.</p>	<ul style="list-style-type: none"> Earthworks on contaminated land need to be enabled for the operational and functional need of new and existing infrastructure. 	Reject	Topic 3: Policies

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FS98.36	Fuel Companies (BP, Mobil & Z Energy)	CL-P2	Oppose	AMEND CL-P2 to include reference to infrastructure	<ul style="list-style-type: none"> For the reason noted in the Fuel Companies submission, including that it should apply only to human health effects, the policy should be deleted. 	Reject	Topic 3: Policies
283.117	Northpower Limited and Northpower Fibre Limited	CL-P3.4	Amend	AMEND CL-P3.4 as follows: "4. Disposal of contaminated soil must be carried out in a manner that protects avoids further adverse effects on human health and safety, or on and the environment." AND Any further necessary consequential amendments required.	<ul style="list-style-type: none"> The use of "avoids further effects" as it is inconsistent with the objectives and does not recognise that avoidance is not achievable nor necessary in every scenario. The full range of the effect's hierarchy (avoid, remedy, mitigate) should be available. 	Reject	Topic 3: Policies
FS98.37	Fuel Companies (BP, Mobil & Z Energy)	CL-P4	Oppose in part	AMEND CL-P4.3 for disposal of contaminated land to include 'and safety'.	<ul style="list-style-type: none"> The Fuel Companies agree that avoidance is not achievable nor necessary in every scenario. However, the policy oversteps Council's responsibilities under the Resource Management Act and National Environmental Standards for Contaminated Soil and should be deleted and replaced, as sought in the Fuel Companies submission. 	Reject	Topic 3: Policies
287.33	Silver Fern Farms	General - Contaminated Land	Support	RETAIN the approach in the Contaminated land chapter to not include rules. OR Provisions or wording to similar effect. AND Any necessary and consequential amendments. AND	<ul style="list-style-type: none"> It is appropriate for the Contaminated land chapter to not include rules and instead defer to the National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health Regulations 2011. 	Accept	Topic 1, 2 and 3: Contaminated Land Overview, Objectives, Policies

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				All further relief necessary to give effect to the concerns raised in the submission.			
311.16	Fuel Companies (BP, Mobil & Z Energy)	Overview	Support	<p>DELETE the Overview in the Contaminated land chapter and replace with the following: <u>Contaminated soil in the District can have adverse effects on human health if it is not appropriately managed.</u> <u>Council has responsibilities under the RMA in relation to the subdivision, use or development of contaminated land. This includes observing and enforcing the Resource Management (National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health) Regulations 2011 (NESCSCS). The NESCSCS provides a national environmental standard for activities on land where soil may be contaminated. The NESCSCS seeks to ensure that contaminated pieces of land are appropriately identified and assessed when soil disturbance, subdivision or a change in land use takes place and, if necessary, remediated or managed to ensure the land is safe for human health and its intended use.</u> <u>There are no independent or additional rules in the District Plan to manage contaminated land. The purpose of this chapter is to provide a corresponding policy framework for assessing resource consent</u></p>	<ul style="list-style-type: none"> Support the intent of the overview however consider this could better state the purpose of the chapter to support the rules in the National Environmental Standards for Contaminated Soil (NESCSCS). 	Reject	Topic 1: Overview

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				<p><u>applications required under the NESCS.</u> <u>The Northland Regional Council has other responsibilities under the RMA in relation to contaminated land. This includes managing the effects of activities on the environment (such as the discharge of contaminants in soil into surface water or groundwater) and identifying and monitoring contaminated land through the Selected Land-use Register (SLR). The SLR is a regional database of sites that have been, or may have been, used for activities and industries included in the Ministry for the Environment’s Hazardous Activities and Industries List (HAIL). The Ministry for the Environment’s website provides access to the NESCS, HAIL, NESCS Users’ Guide, and documents incorporated by reference in the NESCS such as the Contaminated Land Management Guidelines.</u> AND Any consequential or alternative relief required to achieve the same outcome.</p>			
301.27	Channel Terminal Services Limited	General - Contaminated Land	Support	<p>RETAIN Contaminated land chapter as notified. AND Any ancillary, or alternative and consequential relief as necessary or appropriate.</p>	<ul style="list-style-type: none"> The submitter generally supports the provisions in the Contaminated land chapter, particularly the decision not to include any rules and to avoid unnecessarily duplicating the existing regulations under the National Environmental Standards 	Accept	Topic 1, 2 and 3: Contaminated Land Overview, Objectives, Policies

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					for Assessing and Managing Contaminants in Soil to Protect Human Health 2011 and the relevant provisions of the Northland Regional Plan.		
304.58	Director General of Conservation	CL-P2	Amend	AMEND CL-P2 to ensure earthworks do not have the potential to create adverse effects associated with kauri dieback. AND Any further or alternative relief to like effect to that sought.	<ul style="list-style-type: none"> Though the policy generally discourages disturbing contaminated land where disturbance could adversely affect the environment, it does not mention adverse effects on kauri dieback. 	Reject	Topic 4: Kauri dieback
FS98.38	Fuel Companies (BP, Mobil & Z Energy)	CL-P2	Oppose	AMEND CL-P2 to include reference to kauri dieback.	<ul style="list-style-type: none"> For the reason noted in the Fuel Companies submission, including that it should apply only to human health effects, the policy should be deleted. 	Reject	Topic 4: Policies
FS93.168	Royal Forest and Bird Society of New Zealand	CL-P2	Support	AMEND CL-P2 to improve provisions and improve outcomes for indigenous biodiversity.	<ul style="list-style-type: none"> For the same reasons noted in the Director General of Conservation’s submission point 304.58. 	Accept in part	Topic 4: Policies
304.59	Director General of Conservation	CL-P3	Amend	AMEND CL-P3 to ensure the effects of kauri dieback are avoided, remedied, or mitigated using the rules in the the Biosecurity (National PA Pest Management Plan) Order 2022. AND Any further or alternative relief to like effect to that sought.	<ul style="list-style-type: none"> The submitter requests that CL-P3 is amended to provide assessment for kauri dieback. 	Reject	Topic 4: Kauri dieback
FS98.39	Fuel Companies (BP, Mobil & Z Energy)	CL-P3	Oppose	AMEND CL-P3 to include reference to kauri dieback.	<ul style="list-style-type: none"> The policy oversteps Council's responsibilities under the Resource Management Act and National Environmental Standards 	Reject	Topic 4: Kauri dieback

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					for Contaminated Soil and should be deleted and replaced, as sought in the Fuel Companies submission.		
FS93.168	Royal Forest and Bird Protection Society of NZ	CL-P3	Support	AMEND CL-P3 to improve provisions and improve outcomes for indigenous biodiversity.	<ul style="list-style-type: none"> For the same reasons noted in the Director General of Conservation’s submission point 304.59. 	Accept in part	Topic 4: Kauri dieback
311.20	Fuel Companies (BP, Mobil & Z Energy)	CL-P2	Oppose	DELETE CL-P2. AND Any consequential or alternative relief required to achieve the same outcome.	<ul style="list-style-type: none"> Do not support intent of policy. The policy does not accord with the requirements of the National Environmental Standards for Contaminated Soil and not all disturbance will lead to a change in toxicity or have an effect on human health. For example, reg 8.1 of the National Environmental Standards for Contaminated Soil permits the removal or replacement of fuel storage systems, even if there is no contaminated land, and is not in itself remediation. The policy extends to effects on the environment from contaminated land, and as noted in the submission on the contaminated land objectives, the policy framework of a contaminated land chapter, should focus on human health effects from subdividing, changing use and developing contaminated land. Policy CL-P2 should be deleted and any effects on health dealt with through policy CL-P3, including in relation to remediation, subject to the 	Reject	Topic 3: Policies

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					submission amendments sought to that policy.		
FS45.112	Director General of Conservation	CL-P2	Oppose	Director General of Conservation request to retain CL-P2 and rejects the Fuel company submission 311.20 to delete CL-P2.	<ul style="list-style-type: none"> Do not support the deletion of this policy, as it would create a gap in managing the effects of earthworks, which could adversely impact indigenous biodiversity if left unmanaged. 	Reject	Topic 3: Policies
309.50	Clarus	General - Contaminated Land	Support	<p>RETAIN the Contaminated land chapter.</p> <p>AND</p> <p>Any necessary consequential changes to the Proposed District Plan that are required to give effect to the submission.</p>	<ul style="list-style-type: none"> The provisions are appropriate and necessary. 	Accept	Topic 1, 2 and 3: Contaminated Land Overview, Objectives, Policies
311.17	Fuel Companies (BP, Mobil & Z Energy)	CL-O1	Support	<p>DELETE CL-O1 and replace as follows:</p> <p>CL-O1 Identify and manage contaminated land</p> <p>Contaminated land is identified and managed so that it remains acceptable and safe for human health and its intended use.</p> <p>Refer also submission point 311.18</p> <p>AND</p> <p>Any consequential or alternative relief required to achieve the same outcome.</p>	<ul style="list-style-type: none"> The submitter supports the general intent of the contaminated land objectives. It is considered that the two objectives can be simplified to a single objective. The submitter supports an objective to protect human health and the intended use of the contaminated land. The submitter is concerned that the objective also extends to effects on the environment from contaminated land which is the responsibility of Northland Regional Council to maintain the Selected Land-use Register (SLR). The rules/methods in the Northland Regional Plan to investigate 	Reject	Topic 2: Objectives

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					<p>potentially contaminated land, remediating contaminated land, and discharging contaminants from contaminated land to soil, water and air.</p> <ul style="list-style-type: none"> The policy framework of a contaminated land chapter, complementing the existing rules framework of the National Environmental Standards for Contaminated Land, would focus on human health effects from subdividing, changing use and developing contaminated land. No other contaminated land rules are proposed in the Proposed District Plan, so a broader objective/policy framework relating to effects on the environment is not required. 		
311.18	Fuel Companies (BP, Mobil & Z Energy)	CL-O2	Support	<p>DELETE CL-O2 and replace as follows:</p> <p>CL-O1 Identify and manage contaminated land</p> <p>Contaminated land is identified and managed so that it remains acceptable and safe for human health and its intended use.</p> <p>AND</p> <p>Any consequential or alternative relief required to achieve the same outcome.</p> <p>Refer also submission point 311.17</p>	<ul style="list-style-type: none"> Support the general intent of the contaminated land objectives. It is considered that the two objectives can be simplified to a single objective. Support an objective to protect human health and the intended use of the contaminated land. There is concern that the objective also extends to effects on the environment from contaminated land which is the responsibility of Northland Regional Council to maintain the Selected Land-use Register (SLR). The rules/methods in the Northland Regional Plan to investigate potentially contaminated land, remediating 	Reject	Topic 2: Objectives

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					<p>contaminated land, and discharging contaminants from contaminated land to soil, water and air.</p> <ul style="list-style-type: none"> The policy framework of a contaminated land chapter, complementing the existing rules framework of the National Environmental Standards for Contaminated Soil, would focus on human health effects from subdividing, changing use and developing contaminated land. No other contaminated land rules are proposed in the Proposed District Plan, so a broader objective/policy framework relating to effects on the environment is not required. There is a concern with CL-O2 that it seeks to increase development opportunities from the remediation and site management of contaminated land, however, this alone does not increase the development opportunity, nor is it related to Council’s responsibility to protect human health associated with contaminated land. The two notified objectives should be deleted and replaced with a new objective. 		
311.19	Fuel Companies (BP, Mobil & Z Energy)	CL-P1	Support	<p>DELETE CL-P1 and replace as follows:</p> <p>CL-P1 Identification of Contaminated Land</p>	<ul style="list-style-type: none"> Support general intent. In the National Environmental Standards for Contaminated Soil and the Ministry for the Environment contaminated land guidelines, identification relates to 	Reject	Topic 3: Policies

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				<p>To identify land that is, or is likely to be, subject to contamination as a result of current or historical land uses and activities at the time of subdivision, change of use, or development.</p> <p>AND</p> <p>Any consequential or alternative relief required to achieve the same outcome.</p>	<p>the ‘piece of land’, rather than the site and in some cases the entire site may not be a ‘piece of land’ and the title of the policy should be amended to “identify contaminated land”.</p> <ul style="list-style-type: none"> The policy should be aligned with Council’s responsibility to identify contaminated land at the time of subdivision, change of use or development. A new policy is proposed to replace the notified policy. 		
311.21	Fuel Companies (BP, Mobil & Z Energy)	CL-P3	Support	<p>DELETE CL-P3 and replace as follows:</p> <p>CL-P2 Human Health</p> <p>To ensure that land that is, or is likely to be, subject to contamination is safe for human health and suitable for the intended use through the following methods where appropriate:</p> <ol style="list-style-type: none"> Requiring a best practice approach to remediation and/or management of the piece of land. Mitigating the risk posed by the contaminants to human health. Transporting, tracking, and disposing soil and other materials where it cannot be appropriately managed in-situ. 	<ul style="list-style-type: none"> Support general intent but consider oversteps Council’s responsibilities under the RMA and National Environmental Standards for Contaminated Soil, including the concerns raised on the contaminated land objectives and policy CL-P2 relating to effects on the environment from contaminated land. Clause (3) and (6) of the policy imply that some type of site investigation will be needed (e.g. a preliminary site investigation (PSI) or detailed site investigation (DSI)) prior to any subdivision, change of use or development (that requires National Environmental Standards for Contaminated Soil consent). The submitters consent requirements under the National Environmental Standards for Contaminated Soil would lead to the activity being considered contrary to this policy. 	Reject	Topic 3: Policies

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				<p>AND</p> <p>Any consequential or alternative relief required to achieve the same outcome.</p>	<ul style="list-style-type: none"> The policy is also overly complex and does not accord with the best practice approach for the management or remediation of contaminated land. A new policy is proposed to replace the notified policy. 		
311.22	Fuel Companies (BP, Mobil & Z Energy)	General - Contaminated Land	Support	<p>RETAIN the note in the Contaminated land chapter that there are no rules for this chapter.</p> <p>AND</p> <p>Any consequential or alternative relief required to achieve the same outcome.</p>	<ul style="list-style-type: none"> Support that there are no rules in the Contaminated land chapter. Does not duplicate the National Environmental Standards for Contaminated Soil. 	Accept	Topic 1: Overview and General