

**BEFORE A HEARINGS PANEL APPOINTED BY THE KAIPARA DISTRICT COUNCIL**

**IN THE MATTER OF** the Resource Management Act 1991 (“the Act” or “the RMA”)

**AND**

**IN THE MATTER OF** the submissions of bp Oil New Zealand Limited, Mobil Oil New Zealand Limited and Z Energy Limited on the Proposed Kaipara District Plan (“the PDP”)

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**STATEMENT OF EVIDENCE (PLANNING) OF THOMAS TREVILLA ON BEHALF OF  
BP OIL NEW ZEALAND LIMITED, MOBIL OIL NEW ZEALAND LIMITED AND Z  
ENERGY LIMITED (“THE FUEL COMPANIES”) (SUBMITTER S311 AND FURTHER  
SUBMITTER FS98)**

**HEARING 7 (CONTAMINATED LAND)**

**17 FEBRUARY 2026**

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## **1. INTRODUCTION**

- 1.1 My full name is Thomas Gabriel Dela Cruz Trevilla. I have over five years of experience in the field of resource management planning. I hold the degree of Bachelor of Urban Planning (Honours) from the University of Auckland. I am an Intermediate Member of the New Zealand Planning Institute.
- 1.2 I am employed as a Senior Planner at SLR. I have been employed by SLR since October 2022. Prior to SLR, I was a Planning Assistant at Barker & Associates Limited from January 2019 to October 2020 and Planner at Babbage Consultants Limited from October 2020 to October 2022.
- 1.3 My principal role at SLR is to provide planning services with a particular focus on the industrial, commercial and infrastructure sectors (fuel, electricity, stormwater and telecommunications). This includes preparing or processing resource consent applications, providing consenting and policy advice, and preparing submissions, hearing statements and evidence. At SLR, I have provided planning services to private, commercial, council and infrastructure clients, including the Fuel Companies, both collectively and separately.
- 1.4 I have provided submissions and hearings services to the Fuel Companies on proposed plans or plan changes in Far North, Whangārei, Auckland, Waitomo, Wairarapa (Masterton, Carterton and South Wairarapa), Napier and Timaru with a focus, among other topics, on contaminated land.

## **2. CODE OF CONDUCT FOR EXPERT WITNESSES**

- 2.1 I have read the Environment Court's Practice Note January 2023 as it relates to expert witnesses. My brief of evidence is prepared in compliance with the Code of Conduct, and I agree to comply with it in appearing before the Hearings Panel. I am not, and will not behave as, an advocate for my client. I am engaged by the Fuel Companies as an independent expert and SLR provides planning services to the Fuel Companies along with a range of other corporate, public agency and private sector clients. I have no other interest in the outcome of the proceedings.
- 2.2 I confirm that my evidence is within my area of expertise and that I have not omitted to consider material facts known to me that might alter or detract from my expressed opinion. I have not relied on the evidence or opinion of any other person in preparing my evidence.

2.3 I acknowledge that other planners of SLR are the reporting officers for the Kaipara District Council (“the Council”) on other hearing topics of the PDP and the Council has been made aware of this. In accordance with its standard processes, SLR is carefully managing any conflict of interest issues as they arise for specific topics at each hearing. SLR is not involved in the s 42A reporting and recommendations for this hearing. As such, I consider that there are no conflict of interest issues in relation to my evidence.

### **3. SCOPE OF EVIDENCE**

3.1 The Fuel Companies are submitter S311 and further submitter FS98 on the PDP. My evidence relates to the Fuel Companies’ submissions on the PDP’s contaminated land provisions, particularly in the context of activities at their retail fuel outlets in the district. I specifically address the following provisions:

- (a) references to “the environment” in the chapter;
- (b) CL-O1 and CL-O2; and
- (c) CL-P2 and CL-P3.

3.2 In preparing my evidence, I have reviewed:

- (a) the Contaminated Land s 42A report<sup>1</sup> prepared by Sarah Horton (“the Reporting Officer”) on behalf of the Council.
- (b) the relevant notified PDP provisions and supporting documents, including the Contaminated Land s 32 evaluation report;<sup>2</sup>
- (c) the relevant submissions and further submissions; and
- (d) other statutory instruments or documents relevant to my analyses.

3.3 The Fuel Companies accept the Reporting Officer’s recommendations on their submissions on the contaminated land provisions not discussed in this evidence. These matters are commented on in the table included as Appendix B. In particular, the Fuel Companies and I support that the PDP:

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<sup>1</sup> Titled “Section 42A Report Contaminated Land Prepared for the Proposed Kaipara District Plan” and dated 21 January 2026.

<sup>2</sup> Titled “Section 32 Part 2 Contaminated Land Prepared for the Proposed Kaipara District Plan” and dated 28 April 2025.

- (a) provides a complimentary policy framework to guide the assessment of resource consent applications under the NES-CS; and
- (b) does not contain additional rules for contaminated land as it defers to those of the NES-CS.

3.4 I urge that these aspects of the PDP be retained.

#### **4. THE FUEL COMPANIES' INTEREST IN CONTAMINATED LAND PROVISIONS**

4.1 The Fuel Companies receive, store and distribute refined petroleum products around New Zealand. In the District, the Fuel Companies' core business relates to retail fuel outlets, including service stations and truck stops, and supply to commercial facilities. The Fuel Companies have an interest in contaminated land provisions as service stations are a listed activity (F.5) on the Hazardous Activities and Industries List and are usually identified on regional council selected-land use registers ("the SLR"), including the Northland Regional Council's ("the NRC").

4.2 In addition to regional plan rules, the Fuel Companies' activities often require a review of the Resource Management (National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health Regulations 2011 ("the NES-CS") in relation to soil disturbance or the removal, upgrade or replacement of underground fuel tanks. Where the permitted standards cannot be met, the Fuel Companies require resource consent under the NES-CS for activities such as retanking or certain redevelopment works at their sites.

#### **5. REFERENCES TO "THE ENVIRONMENT"**

##### ***The Fuel Companies' submission and Reporting Officer's recommendation***

5.1 The Fuel Companies' submission [311.17, 311.18, 311.20 and 311.21] opposes references to "the environment" in the chapter. The Fuel Companies' concern is that it is already the NRC's responsibility to manage the discharge of contaminants from contaminated land to soil, water and air, while the purpose of the PDP chapter is to provide a complimentary policy framework to the NES-CS, which only manages effects on human health. No other contaminated land rules are proposed in the PDP, so a policy framework relating to broader environmental effects, which per its RMA definition is expansive, is not required.

5.2 The Reporting Officer recommends that all of the Fuel Companies' submission points on the chapter, except for one point [311.22] in support of the rule advice note, be rejected, and that the chapter is retained as notified. The Reporting Officer considers that reference to broader environmental effects is required, and their analysis at paras [91]-[92] of the s 42A report states:

*91. Contaminated land issues are not limited to human health. They also involve, environmental risks (e.g., contamination of water, soil ecosystems) and cultural impacts (e.g., mahinga kai, wāhi tapu sites). CL-P3 explicitly addresses these wider effects, ensuring remediation and management protect both people and the environment. Removing it would leave gaps in environmental and cultural protection. [...]*

*92. The NES-CS focuses on human health, but the district plan is intended to fill gaps by addressing environmental and cultural effects. Limiting the policy to human health would duplicate NES-CS and fail to meet the council's RMA s31(1)(b) function to prevent or mitigate adverse effects on the environment.*

#### **Analysis and recommendation**

5.3 There is no dispute that the effects of contaminated land go beyond human health risks. And I agree that the RMA provides the Council broad scope to control the effects of activities on contaminated land. However, the issue here is not one of scope, but whether it is necessary. Plan provisions should be justified and clear to plan users. To determine whether the chapter's references to "the environment" are necessary, I have turned my mind to:

- (a) the scope of assessments for applications under the NES-CS, which the PDP is intended to assist; and
- (b) the effects managed by the NRC's planning instruments.

5.4 The following analysis sets out my opinion and responds to these matters.

#### Scope of assessments for applications under the NES-CS

5.5 The NES-CS establishes nationally consistent standards for activities on "pieces of land" which may be contaminated in such a way that they pose a risk to human health. It seeks that land affected by contaminants in soil is identified and assessed when specific activities are undertaken and, if necessary, the land is remediated or the contaminants contained so that it is safe for human use. The regulated activities

include the removal or replacement of fuel storage systems, sampling, disturbance, subdivision and changing use, and are classed as permitted to discretionary.

- 5.6 As stated in the overview, the PDP chapter will assist the assessment of applications that require consent under the NES-CS. These assessments should relate solely to human health effects, as made clear on p.10 of the Ministry for the Environment's NES-CS User's Guide:<sup>3</sup>

*The focus of the NES is to protect human health. The NES does not apply to assessing or managing the actual or potential adverse effects of contaminants on other receptors including:*

- *the on-site and off-site ecology;*
- *the on-site and off-site effects on surface water;*
- *the effect of contaminants discharged to water – including sources of human drinking water;*
- *amenity values.*

*Councils (regional and unitary councils, city and district councils) may impose additional controls under the RMA to address any potential or actual effects on these receptors or other matters they have control over.*<sup>4</sup>

- 5.7 It is also made clear on p.42 of the User's Guide:

*The assessment of applications, and granting or declining of the resource consent, will relate only to the activity as described in the NES, and only insofar as that activity relates to assessing and managing contaminants in soil to protect human health.*

- 5.8 Moreover, the matters of control and discretion, under regs 9 and 10 respectively, confirm that the Council's assessment is confined to specific considerations, being the adequacy of the site investigation, proposed remediation and ongoing site management, monitoring and reporting of activities, management of soil and other materials, and consent duration and conditions review. And, while reg 11 provides for discretionary activities, any assessment under this pathway must be within the

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<sup>3</sup> Ministry for the Environment (2012). Document titled "Users' guide: National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health".

<sup>4</sup> Regarding the last sentence, in this case, the PDP is not placing any additional controls (rules) as it defers to the NES-CS.

NES-CS' scope of human health effects. Accordingly, broader environmental effects are outside the scope of NES-CS assessments.

*The effects managed by the NRC's planning instruments*

- 5.9 The NRC's functions in contaminated land management are specified by s 30 and restrictions on regional land use and general contaminant discharge activities are specified by ss 9 and 15 of the RMA.
- 5.10 The NRPS does not have specific contaminated land provisions and the broader issue of hazardous substances is not considered to be a regionally significant issue for the NRPS to address.<sup>5</sup> The NRPS does comment on hazardous substances management and the scope of the NRC and district councils, also noting that "the regional council retains all control over discharges to land, air and water, these include any discharge of hazardous substances".<sup>6</sup>
- 5.11 The NRP, however, has a suite of contaminated land rules, comprising:
- (a) under C.6.8, permitted, controlled and/or discretionary activity rules for:
    - (i) investigating potentially contaminated land;
    - (ii) remediating contaminated land;
    - (iii) passive discharges<sup>7</sup> from contaminated land;
    - (iv) all other discharges of contaminants not otherwise provided for; and
  - (b) under C.6.4, a discretionary activity rule for discharging stormwater onto or into contaminated land or from high-risk industrial or trade premises.
- 5.12 The NRP has one objective (F.1.14) and one policy (D.4.7) for contaminated land. I highlight that Policy D.4.7(3) broadly seeks that an activity "avoids, remedies or mitigates adverse effects on aquatic ecosystem health, water quality, human health and amenity values".

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<sup>5</sup> Footnote [3] on p.9 of the NRPS.

<sup>6</sup> Footnote [2] on p.9 of the RPS.

<sup>7</sup> A passive discharge, as defined by the NRP, is the movement of existing contaminants through soil, groundwater, surface water, or soil gas vapour. It occurs without any new discharge, arising solely from the migration or gradual breakdown of residual contaminants remaining from past land uses or spill events.

Conclusion and recommended relief

- 5.13 Following my analysis, I agree with the Fuel Companies' concern and do not support retaining references to "the environment" as:
- (a) Broader environmental effects are not within the scope of assessing applications under the NES-CS, which the PDP is intended to assist.
  - (b) The NRP provides a broad rules and policy framework for managing the environmental effects of contaminants from contaminated land, whether discharged "actively" or "passively", and in my view already addresses the non-human health effects the Reporting Officer is concerned about.
  - (c) The Council has not explained the gap in effects management under, and between, the NES-CS and NRP that would justify including broader environmental effects into the PDP's policy framework. I highlight that para [30] of the s 32 report states that the regional rules adequately cover wider environmental risks.
  - (d) The ss 32 and 42A reports state<sup>8</sup> that the PDP chapter does not overlap with or duplicate the NRP's provisions yet retaining references to "the environment" risks doing so. Overlapping also risks a district plan contravening s 75(4) by being inconsistent with the regional plan, which is a particular concern when provisions are ambiguous.
  - (e) The chapter overview only refers to effects on human health.
  - (f) The chapter provides no guidance on assessing non-human health effects (including cultural effects, which are not referenced at all in the chapter), and the Reporting Officer does not clarify or recommend amendments in this respect. Therefore, even if the references were necessary, it is unclear how those effects will be assessed and what outcomes are sought, unlike human health effects, for which there are guideline values in the NES-CS assessment framework.
  - (g) The overview states that the chapter is also intended to guide plan changes assessments. I maintain the same concerns above.

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<sup>8</sup> Contaminated Land s 32 evaluation report para [12] and p.11, and s 42A report paras [58], [61] and [62].

- 5.14 Accordingly, I conclude that references to “the environment” in the chapter have fundamental issues and recommend that they be deleted.

***Further evaluation pursuant to s 32AA of the RMA***

- 5.15 The s 32AA further evaluation in Appendix A concludes that the above amendments are the most appropriate, effective and efficient option to achieve the purpose of the RMA.

**6. CL-O1 AND CL-O2**

***The Fuel Companies’ submission and Reporting Officer’s recommendation***

- 6.1 The Fuel Companies’ submission [311.17 and 311.18] requests the replacement of CL-O1 and CL-O2 with one objective as set out in their submission. The Fuel Companies support the general intent of the objectives but consider that they could be simplified into a single objective, the reference to “the environment” is inappropriate, and they are concerned with CL-O2 as improving development from management and/or remediation is not necessarily achievable in all instances.
- 6.2 The Reporting Officer recommends that the submission be rejected, and CL-O1 and CL-O2 be retained as notified. Their analysis is set out in paras [67]-[75] and, from my reading, their rationale is that the objectives should be kept separate as they serve distinct purposes, specifically CL-O1 is for the management of adverse effects and ensuring the safe use of contaminated land, while CL-O2 seeks positive outcomes from remediation.

***Analysis and recommendation***

- 6.3 On review, I accept the retention of separate policy direction via CL-O1 and CL-O2 and acknowledge there may be value in CL-O2’s aspirations. However, I have the following concerns with the notified wording:
- (a) Neither objective has a clear link to the policy of identifying contaminated land in CL-P1.
  - (b) The use of “safety” specifically in “protect human health and safety” in CL-O1 is not required nor does it add anything to that already understood by “human health”. The use of “safety” in this way may also create an

expectation that the Council will control matters that are under WorkSafe's functions, which would be inappropriate.

- (c) As discussed, reference to "the environment" in CL-O1 is problematic.
- (d) The wording "contributes to the health ... of communities" in CL-O2 duplicates the human health concern in CL-O1.
- (e) CL-O2 reads as an expectation that activities must contribute to community wellbeing and increase development opportunities which cannot be achieved in all instances. For example, soil disturbance or other activities that simply enable a site's ongoing operation or maintenance, rather than increase development potential.

6.4 Lastly, neither objective recognises that the land should be safe for its "intended use" which is a term that arises from reg 7 of the NES-CS. It is in the context of site management being commensurate to, and that contaminant levels are safe based on, the risk profile or sensitivity of the land's intended use. This will vary, for example, for residential activities, industrial activities or, sealed service station sites. Moreover, this term is already referred to, albeit with different wording, in CL-P3(1) which seeks that land is managed and/or remediated so that "contaminants are at a level acceptable for the proposed land use".

6.5 To address these issues, I recommend that CL-O1 and CL-O2 are replaced with the following (insertions in **bold double underline**):

**CL-O1 Identification of contaminated land and management of activities**

**Contaminated land is identified, and its subdivision, use or development are managed so that the land is acceptable and safe for human health and its intended use.**

**CL-O2 Management and remediation of contaminated land**

**The management and/or remediation of contaminated land contributes to community wellbeing and increases development opportunities, where such outcomes can be achieved.**

6.6 The replacement objectives:

- (a) seek that contaminated land is identified;
- (b) seek that activities on the land are managed so that the land is acceptable and safe for human health and its "intended use";

- (c) do not have reference to “the environment”; and
- (d) seek that site management and/or remediation contribute to community wellbeing and development opportunities, where these are achievable.

***Further evaluation pursuant to s 32AA of the RMA***

6.7 Aside from deleting the reference to “the environment”, which has been previously evaluated, the amendments do not represent a substantive change in the notified objective direction. Rather, they clarify the wording, establish clearer links with CL-P1 (identifying contaminated land) and CL-P3(1) (intended use), and recognise that activities on contaminated land may not generate notable positive effects in all circumstances. I consider the amendments to be an appropriate, efficient, and effective way to achieve the purpose of the RMA, and no additional s 32AA further evaluation is required.

**7. CL-P2**

***The Fuel Companies’ submission and Reporting Officer’s recommendation***

7.1 The Fuel Companies’ submission [311.20] requests that CL-P2 be deleted. The Fuel Companies consider CL-P2 goes beyond the NES-CS’ scope, capturing disturbance activities, such as for fuel storage system replacement, that do not necessarily create toxicity risks or require remediation. They also maintain their concerns of managing broader environmental effects than just human health.

7.2 The Reporting Officer recommends the submission be rejected and CL-P2 be retained as notified. At para [91] of the s 42A report, they support CL-P2 as it seeks to prevent “unnecessary disturbance of contaminated land during earthworks, reducing the risk of spreading contaminants”.

***Analysis and recommendation***

7.3 While I recognise the policy intent, I have the following concerns with CL-P2:

- (a) It discourages disturbance in situations where *contaminants* could pose a risk to human health, but fails to recognise that risk is determined by how the *activity* is undertaken.

- (b) The NES-CS provides for soil disturbance that does not necessarily require remediation, such as the replacement of fuel storage systems at service stations. However, the policy could be discouraging, even though a key purpose is to replace old tanks with modern systems that are better designed to prevent contaminant discharges.
- (c) As discussed, the specific use of “safety” in “protect human health and safety” is redundant, and the reference to “the environment” is problematic.

7.4 In my view, the policy has fundamental issues and does not provide any clear or useful policy direction beyond what is already addressed in the wider policy framework. Accordingly, I recommend that CL-P2 be deleted.

***Further evaluation pursuant to s 32AA of the RMA***

7.5 The s 32AA further evaluation in Appendix A concludes that the above amendments are the most appropriate, effective and efficient option to achieve the purpose of the RMA.

**8. CL-P3 (311.21)**

***The Fuel Companies’ submission and Reporting Officer’s recommendation***

8.1 The Fuel Companies’ submission [311.21] requests the replacement of CL-P3 with a shorter policy as set out in their submission. While the Fuel Companies support the intent of CL-P3, they consider that it exceeds Council’s responsibilities under the RMA and NES-CS, particularly when read alongside the concerns raised with CL-P2. The Reporting Officer recommends that the submission be rejected, and CL-P3 is retained as notified.

***Analysis and recommendation***

8.2 On review, I accept the retention of CL-P3 but have the following concerns with the notified wording:

- (a) Reference to “the environment” should be deleted and “proposed land use” in cl (1) should be replaced with “intended use” to align with terminology in the NES-CS and CL-O1 (per my recommendation).

- (b) The phrase “from the management or remediation of contaminated land” should be deleted from the chapeau as it is already addressed by cl (1) and is grammatically misaligned with some clauses. For example, when the chapeau is read together with cl (5), it requires that the management or remediation of contaminated land ensures that the use or development of contaminated land does not damage or destroy containment works. Clause (5) clearly relates to use or development, not remediation, so retaining this phrase is incorrect and confusing.
- (c) The chapeau should end with the phrase “where appropriate”, consistent with cl (3), because not all clauses will apply to every activity. For example, some activities may not require the disposal of contaminated soil, in which case cl (4) would not be relevant. Including “where appropriate” in the chapeau makes it clear that the applicability of each clause depends on the nature of the activity.

8.3 To address these issues, I recommend that CL-P3 be amended as follows (insertions in **bold double underline** and deletions in ~~bold double strike through~~):

~~CL-P3~~ **CL-P2** *Contaminated land management and remediation*

*Avoid, remedy or mitigate adverse effects on ~~the health of people and the environment~~ **human health** ~~from the management or remediation of contaminated land~~ by ensuring that, **where appropriate**:*

1. *Contaminated land is managed and/or remediated to ensure that contaminants are at a level acceptable for ~~the proposed land use~~ **the land's intended use**.*

[...]

4. *Disposal of contaminated soil must be carried out in a manner that avoids further adverse effects on human health ~~or on the environment~~.*

[...]

***Further evaluation pursuant to s 32AA of the RMA***

8.4 The above amendments are consequential to my earlier recommendations, which have already been evaluated, or they are grammatical corrections that do not alter the policy intent. I consider these amendments to be an appropriate, efficient, and

effective way to achieve the purpose of the RMA, and no additional s 32AA further evaluation is required.

## **9. CONCLUSION**

9.1 I support the PDP providing a contaminated land policy framework that complements, and does not introduce additional rules beyond, the NES-CS. While I largely support the overall policy direction of the chapter, I do not support:

- (a) references “to the environment”;
- (b) CL-P2; and
- (c) the notified wording of CL-O1, CL-O2 and CL-P3.

9.2 Accordingly, I recommend that the Hearings Panel:

- (a) reject the Reporting Officer’s recommendations on the Fuel Companies’ submission [311.16 to 311.18 and 311.20 to 311.21];
- (b) adopt the Reporting Officer’s recommendation on the Fuel Companies’ submission [311.19] (CL-P1) and [311.22] (rules note); and
- (c) adopt the amendments recommended in my evidence.

9.3 Lastly, if there are any specific issues that the Hearings Panel and/or Council wish to address, or a more pragmatic way to achieve the recommended relief, I am more than happy to consider alternatives and/or participate in conferencing.

**Thomas Trevilla**

17 February 2026

**Appendices**      Appendix A: Section 32AA further evaluations

Appendix B: Summary of the Fuel Companies’ submission points, s 42A report recommendations and the Fuel Companies’ position

# **Appendix A**

Section 32AA further evaluations

## Section 32AA further evaluation: Deleting references to “the environment” in the chapter

### Objective of the proposal

To remove provisions from the chapter that are not within the scope of assessments under the NES-CS or overlap with the provisions of the NRP.

### Objective’s alignment with ss 5-8 of the RMA

Section	Alignment
Purpose (s 5)	The objective focuses the chapter on human health effects only, which better aligns it with s 5, as the NES-CS is targeted at enabling people and communities to provide for their health and safety. Broader environmental effects of contaminants are managed by the NRP, so removing these references avoids unnecessary duplication that does not further the RMA’s sustainable management purpose.
Matters of national importance (s 6)	There are no s 6 matters relevant to the objective.
Other matters (s 7)	There are no s 7 matters relevant to the objective.
Treaty of Waitangi (s 8)	The objective does not raise any issues with the principles of the Treaty of Waitangi.

### Reasonably practicable options to achieve the objective

Description	Preference
<b>Option 1 (status quo)</b> Retain all references to “the environment” in the chapter.	<b>Not preferred</b> Retaining the references is not preferred for the reasons set out in the evidence analysis.
<b>Option 2 (delete references)</b> Delete all references to “the environment” in the chapter.	<b>Preferred</b> This is preferred as it provides a clearer, more efficient and NES-CS aligned policy framework by focusing the chapter on human health effects and avoiding duplication with the NRP.

### Evaluation of the preferred option

	Costs	Benefits
<b>Environmental</b>	The option has no identifiable environmental costs, as the NRP manages wider environmental effects and removing the references in the PDP does not reduce overall management under the RMA.	The option reduces uncertainty by avoiding duplicated assessments under the PDP and NRP. It also streamlines plan administration by limiting the chapter to the NES-CS’ function.
<b>Economic</b>	No direct or indirect costs have been identified.	The option avoids unnecessary consenting delays and costs,

		thereby supporting the efficient operation of service stations. This contributes to broader economic benefits for local communities and businesses that rely on dependable fuel supply.
<b>Social</b>	No direct or indirect costs have been identified.	No direct or indirect benefits have been identified.
<b>Cultural</b>	No direct or indirect costs have been identified.	No direct or indirect benefits have been identified.
<b>Economic growth</b>	The option does not change the substantive requirements for assessing, managing, or remediating contaminated land. Material impacts on economic growth are unlikely; however, greater certainty in plan provisions can support more efficient consenting processes and associated time or cost savings.	
<b>Employment opportunities</b>	The option does not change the substantive requirements for assessing, managing, or remediating contaminated land. Accordingly, any effect on employment opportunities is likely to be minimal.	
<b>Uncertain or insufficient information</b>	The option presents a low risk of uncertain or insufficient information, as the NRP already manages broader environmental effects. The Council has also not identified any regulatory gap in environmental effects management under, or between, the PDP and NRP.	
<b>Risk of acting or not acting</b>	<p>The option presents a low risk of acting because broader environmental effects of contaminants are already managed by the NRP, and it simply aligns the chapter with the NES-CS' intent while avoiding duplication.</p> <p>The option presents a higher risk of not acting, as retaining the references may create ambiguity about whether the Council must assess effects beyond human health. This increases the likelihood of inconsistent and inefficient assessments and raises the potential for inconsistency with the NRP in contravention of s 75 RMA.</p>	
<b>Effectiveness and Efficiency</b>	The option is effective because it focuses the chapter on human health effects only, consistent with the NES-CS' intent. By removing the references, the provisions target the relevant effects and avoid overlap with the NRP. This improves the clarity and consistency of plan interpretation, assessments and consent processes, and thereby improving the overall effectiveness and efficiency of applying the plan.	

For the reasons set out above, Option 2 is the most efficient and effective option for achieving the objective of the proposal. As such, this option is the most appropriate option in accordance with s 32AA of the RMA.

## Section 32AA further evaluation: Deleting CL-P2

### Objective of the proposal

To remove ambiguous and potentially restrictive policy direction from the chapter.

### Objective's alignment with ss 5-8 of the RMA

Section	Alignment
Purpose (s 5)	The objective is consistent with the purpose of the RMA, as it removes ambiguous policy direction that may unnecessarily activities that enable people and communities to provide for their social, economic, or cultural well-being. This is particularly relevant given that the wider policy framework already seeks that human health is protected.
Matters of national importance (s 6)	There are no s 6 matters relevant to the objective.
Other matters (s 7)	There are no s 7 matters relevant to the objective.
Treaty of Waitangi (s 8)	The objective does not raise any issues with the principles of the Treaty of Waitangi.

### Reasonably practicable options to achieve the objective

Description	Preference
<b>Option 1 (status quo)</b> Retain CL-P2 as notified.	<b>Not preferred</b> Retaining CL-P2 is not preferred for the reasons set out in the evidence analysis.
<b>Option 2 (delete references)</b> Delete CL-P2.	<b>Preferred</b> CL-P2 is an ambiguous and potentially restrictive policy direction and its deletion is preferred.

### Evaluation of the preferred option

	Costs	Benefits
<b>Environmental</b>	No identifiable environmental costs as soil disturbance will continue to be regulated by the NES-CS and assessed under the NES-CS provisions and PDP's policy framework.	The option provides environmental benefits by removing a policy barrier that could discourage activities that do not involve remediation but will reduce contamination risks and improve outcomes, such as the replacement of old underground fuel tanks with modern systems.
<b>Economic</b>	No direct or indirect costs have been identified.	The option provides economic benefits by avoiding uncertainty in the interpretation and application of the policy. This can improve the efficiency of the consenting process, thereby reducing associated time and costs.

<b>Social</b>	No direct or indirect costs have been identified.	No direct or indirect benefits have been identified.
<b>Cultural</b>	No direct or indirect costs have been identified.	No direct or indirect benefits have been identified.
<b>Economic growth</b>	The option is unlikely to have a significant effect on growth. However, it ensures that soil disturbance activities not requiring remediation, which improve environmental outcomes and/or enable new or the continued operation of existing activities, are not discouraged, thereby supporting economic wellbeing.	
<b>Employment opportunities</b>	The option is unlikely to have a significant impact on employment opportunities.	
<b>Uncertain or insufficient information</b>	The option is supported by a high level of certainty as the management of contaminated land is closely managed by NES-CS. There is no lack of information regarding how the removal of this policy will impact the district, as the remaining regulatory framework is comprehensive.	
<b>Risk of acting or not acting</b>	Acting on the option carries low risk because the NES-CS and other policy framework will manage activities on contaminated land and their effects on human health. Not acting on the option is higher risk, as it retains a policy that is poorly defined and may prevent the very activities required to reduce long-term health risks.	
<b>Effectiveness and Efficiency</b>	Removing ambiguous policy direction that may discourage beneficial activities improves the clarity of the PDP, thereby supporting more effective and efficient consenting processes, and promotes better outcomes for human health.	

For the reasons set out above, Option 2 is the most efficient and effective option for achieving the objective of the proposal. As such, this option is the most appropriate option in accordance with s 32AA of the RMA.

## **Appendix B**

Summary of the Fuel Companies' submission points, s 42A report recommendations and the Fuel Companies' position

Summary of the Fuel Companies' submission points, s 42A report recommendations and the Fuel Companies' position

Ref #	Provision	Submission Reason	Submission Position and Relief Sought (additions <u>underlined</u> and deletions <del>strike through</del> )	Officer Recommendation	Submitter's Position
311.16	Overview	The Fuel Companies support the intent of the chapter overview, including the purpose of the NES-CS. However, it is considered that the overview section could better state the purpose of the chapter to support the rules in the NES-CS.	<p><b>Oppose in part</b> Overview.</p> <p><b>Delete</b> the Contaminated Land Overview and replace with the following overview:</p> <p><u>Contaminated soil in the District can have adverse effects on human health if it is not appropriately managed.</u></p> <p><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 (NESCS). The NESCS provides a national environmental standard for activities on land where soil may be contaminated. The NESCS 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></p> <p><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 applications required under the NESCS.</u></p> <p><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).</u></p> <p><u>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></p>	Reject	Addressed in evidence
311.17 311.18	CL-O1 CL-O2	The Fuel Companies support the general intent of the contaminated land objectives where these accord with the Council's functions under the RMA in relation to contaminated land. However, it is considered that the two objectives can be simplified to a single objective.	<p><b>Support in part</b> CL-O1 and CL-O2.</p> <p><b>Delete</b> CL-O1 and CL-O2 and replace with a new objective as follows:</p> <p><u>CL-O1 Identify and manage contaminated land</u></p>	Reject	Addressed in evidence

Ref #	Provision	Submission Reason	Submission Position and Relief Sought (additions <u>underlined</u> and deletions <del>strike through</del> )	Officer Recommendation	Submitter's Position
		<p>The Fuel Companies support an objective to protect human health and the intended use of the contaminated land. This arises from the regulations in the NESCS to disturb soil, subdividing or changing the use of land and ensuring that contaminant levels are safe with respect to risk profile or sensitivity of the intended use, which will vary dependent on the intended use, e.g. residential verses industrial activities.</p> <p>There is a concern that CL-O1 also extends to effects on the environment from contaminated land. It is the responsibility of Northland Regional Council to maintain the Selected Land-use Register (SLR) and the rules/methods in the Northland Regional Plan to investigate potentially contaminated land, remediating contaminated land, and discharging contaminants from contaminated land to soil, water and air. In contrast, the policy framework of a contaminated land chapter, complementing the existing rules framework of the NESCS, would focus on human health effects from subdividing, changing use and developing contaminated land. No other contaminated land rules are proposed in the PDP, so a broader objective/policy framework relating to effects on the environment is not required.</p> <p>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.</p> <p>The two notified objectives should be deleted and replaced with a new objective.</p>	<p><u>Contaminated land is identified and managed so that it remains acceptable and safe for human health and its intended use.</u></p>		
311.19	CL-P1	<p>The Fuel Companies support the general intent of policy CL-P1 relating to the identification of contaminated land. However, in accordance with the NESCS and MfE contaminated land guidelines, identification relates to the 'piece of land', rather than the site. That is, 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". Further, it is considered that 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.</p>	<p><b>Support in part CL-P1.</b></p> <p><b>Delete</b> CL-P1 and replace with a new policy as follows:</p> <p><u>CL-P1 Identification of Contaminated Land</u></p> <p><u>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.</u></p>	Reject	Accept
311.20	CL-P2	<p>The Fuel Companies do not support the intent of CL-P2 for several reasons:</p> <ul style="list-style-type: none"> <li>The policy does not accord with the requirements of the NESCS 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 NESCS permits the removal or replacement of fuel storage systems, even if there is no contaminated land, and is not in itself remediation.</li> <li>The policy extends to effects on the environment from contaminated land, and as noted in the submission on the</li> </ul>	<p><b>Oppose</b> CL-P2.</p> <p><b>Delete</b> CL-P2.</p>	Reject	Addressed in evidence

Ref #	Provision	Submission Reason	Submission Position and Relief Sought (additions <u>underlined</u> and deletions <del>strike through</del> )	Officer Recommendation	Submitter's Position
		<p>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.</p> <p>CL-P2 should be deleted and any effects on health dealt with through CL-P3, including in relation to remediation, subject to the submission amendments sought to that policy.</p>			
311.21	CL-P3	<p>The Fuel Companies support the general intent of CL-P3 but consider that it oversteps Council's responsibilities under the RMA and NESCS, including the concerns raised on the contaminated land objectives and policy CL-P2 relating to effects on the environment from contaminated land.</p> <p>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 NES-CS consent). For the Fuel Companies, a common NESCS consent requirement is during service station retanking work as it typically exceeds the permitted soil disturbance volume under reg 8(1). While there is a controlled or restricted discretionary activity pathway under regs 9 or 10 respectively, both require the existence of a DSI. A DSI is not undertaken in most situations of retanking at an operational site as:</p> <ul style="list-style-type: none"> <li>• It would not be feasible (i.e., drilling through sealed forecourts around underground tanks); and</li> <li>• It would not offer any particular benefit as the nature of potential contaminants (e.g., petroleum hydrocarbons) is known and there are established management and/or remediation measures to appropriately undertake the works.</li> </ul> <p>As such, the Fuel Companies usually apply for a discretionary activity consent under reg 11 where permitted standards will not be met. Therefore, if the Fuel Companies were to apply for such a consent, the absence of a DSI may lead to the activity being considered contrary to CL-P3. 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.</p>	<p><b>Support in part</b> CL-P3.</p> <p><b>Delete</b> CL-P3 and replace with a new policy as follows:</p> <p><u>CL-P2 Human Health</u></p> <p><u>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:</u></p> <ol style="list-style-type: none"> <li>1. <u>Requiring a best practice approach to remediation and/or management of the piece of land.</u></li> <li>2. <u>Mitigating the risk posed by the contaminants to human health.</u></li> <li>3. <u>Transporting, tracking, and disposing soil and other materials where it cannot be appropriately managed in-situ.</u></li> </ol>	Reject	Addressed in evidence
311.22	General	<p>The Fuel Companies support that there are no rules in the Contaminated Land Chapter in conjunction with the supporting objective and policy framework that does not duplicate the NES-CS.</p>	<p><b>Retain</b> the note that there are no rules for this chapter.</p>	Accept	Support