

Section 42A Report

Contaminated Land

Prepared for the

Proposed Kaipara District Plan

Report prepared by: **Sarah Horton**

21 January 2026

List of submitters and further submitters addressed in this report:

Submission Number	Submitter
283	Northpower Limited and Northpower Fibre Limited
287	Silver Fern Farms
301	Channel Terminal Services Limited
304	Director-General of Conservation
309	Clarus
311	Fuel Companies (BP, Mobil & Z Energy)
FS45	Director General of Conservation
FS93	Royal Forest and Bird Society of NZ
FS98	Fuel Companies (BP, Mobil & Z Energy)

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APPENDIX A: RECOMMENDATIONS FOR EACH SUBMISSION POINT ON THE CONTAMINATED LAND CHAPTER

List of abbreviations used in this report.

Abbreviation	Term
HSNO	Hazardous Substance and New Organism 1996
HSWA	Health and Safety at Work Act 2015
IHEMP	Iwi-hapu environmental management plan
KDP	Kaipara District Council Operative District Plan
KDSP	Kaipara District Spatial Plan
LGA	Local Government Act 2002
LTP	Long Term Plan
MHF	Major Hazard Facilities
NES-CS	National Environmental Standards for Contaminated Soil
NPS	National Policy Statements
NCPS	New Zealand Coastal Policy Statement
NRC	Northland Regional Council
NPS: UD	National Policy Statement on Urban Development
NPS-I	National Policy Statement for Infrastructure 2025
PDP	Proposed Kaipara District Plan
PRP	Proposed Regional Plan
RWSP	Regional Water and Soil Plan
RPS	Regional Policy Statement for Northland
RMA	Resource Management Act 1991
S32	Section 32 of the RMA
S42A	Section 42A of the RMA
SP	Structure Plan
RLAA	The Resource Legislation Amendment Act 2017

Executive Summary

- i. The Proposed Kaipara District Plan (**PDP**) was publicly notified in April 2025. The Contaminated Land chapter is located in Part 2 – District Wide Matters and contains objectives and policies to manage the adverse effects of contaminated land on human health and the environment, while avoiding duplication with national and regional regulatory frameworks.
- ii. Six original submitters and three further submitters made submissions on the Contaminated Land chapter. The majority of submissions support the overall approach of the chapter, particularly the decision not to include rules and to rely instead on the National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health (**NES-CS**) and the Northland Regional Council’s regional plan framework as the primary regulatory controls.
- iii. Having considered all submissions and further submissions, I recommend retaining the Contaminated Land chapter as notified.

1. Introduction

Qualifications and Experience

1. My full name is Sarah Alice-Eva Horton. I am employed as a full time Senior Planner – Plan Development at Kaipara District Council (**KDC**).
2. My role in preparing this report is as an expert in planning.
3. I was not directly involved in the preparation of the Contaminated Land chapter prior to notification but have been the reporting officer for this topic since November 2025.
4. I hold a Bachelor of Planning (Hons) at the University of Auckland and am a Full Member of the New Zealand Planning Institute (MNZPI).
5. I have 20 years' experience in statutory planning across local government, private consultancy and independent practice. My professional experience contains extensive assessment and processing of resource consents, including complex and notified applications, within Auckland and Northland. During my time at Auckland Council, I represented Auckland Council at the Environment Court, and was involved in the New Lynn Regeneration project, processing the consents for the undergrounding of the New Lynn Rail Station and electrification of the rail corridor western side. My private sector planning experience includes holding a leadership role reviewing and providing support in the preparation of planning reports and obtaining resource consents for small and large scale residential and subdivision developments in the Auckland and Northland regions. My professional background includes plan and policy development in my previous role as a Senior Policy Planner at Whangarei District Council. My independent practice included being on the supplier panel for Auckland Council and Whangarei District Council resource consent teams, reviewing and preparing submissions, and providing resource management advice.
6. Since joining KDC in November 2025 I have been involved in summarising submissions and further submissions, preparing multiple s42A reports and mentoring a junior planner in relation to the Proposed Kaipara District Plan (**PDP**). I have prepared the s42A report on the Hazardous Substances provisions.

Preparation of the Report

7. I am authorised by KDC to prepare this report under section 42A of the RMA to assist the PDP Hearings Panel. The purpose of this report is to both assist the Hearings Panel in hearing and deciding on submissions made on to the PDP, and to assist submitters in understanding how their submission is being considered as part of the PDP process. This report includes my

recommendations on matters raised in submissions, and any changes to the PDP that I consider to be appropriate having considered the statutory requirements.

8. I am the author of this report. The data, information, facts, and assumptions I have considered in forming my opinions are set out in my evidence. Where I have set out opinions in my evidence, I have given reasons for those opinions. I have not omitted to consider material facts known to me that might alter or detract from the opinions expressed.
9. For the avoidance of doubt, it should be emphasised that any conclusions reached or recommendations that I have made in this report are not binding on the Hearings Panel. It should not therefore be assumed that the Hearings Panel will reach the same conclusions or decisions having considered all the submissions and evidence from submitters. The decision ultimately lies with the Hearings Panel.

Code of Conduct

10. While this is not a hearing held by the Environment Court, I confirm that I have read the Code of Conduct for Expert Witness in the Environment Court Practice Note 2023 and that I have complied with it when preparing this report. Other than when I state that I am relying on the advice of another person, this evidence is within my area of expertise. I have not omitted to consider material facts known to me that might alter or detract from the opinions that I express.

Conflict of Interest

11. I confirm that I have no real or perceived conflict of interest.

2. Scope of Report

Matters addressed by this report

12. The scope of this report is to consider the submissions and further submissions made in respect of the provisions in the Contaminated Land chapter of the PDP and make recommendations.
13. This section 42A report does not address any definitions which are specific to the Contaminated Land chapter simply because no submissions were received relating to definitions in the Contaminated Land chapter.

Overview of the topic / chapter

14. As notified, the Contaminated Land chapter of the Proposed Kaipara District Plan (**PDP**) is designed to build on the National Environmental Standard for Assessing and Managing Contaminants in Soil (**NES-CS**) and regional plan framework to address contamination risks, guide decision-making and protect both human health and the environment. The Contaminated

Land chapter includes objectives and policies but no rules, thereby avoiding duplication with NES-CS and regional provisions that manage contaminated land. The focus of the chapter as notified is to manage land use activities involving Contaminated Land to reduce risks to people, property, and the environment and provide a policy framework for any resource consent required under the NES-CS.

15. The two objectives focus on:
 - a. Managing contaminated land to protect health and the environment (CL-O1).
 - b. Promoting remediation and site management to enable safe future development (CL-O2).
16. Policies guide identification of contaminated sites, discourage unnecessary disturbance, and set best-practice standards for remediation and disposal.

Statutory Context

17. On the 9 December 2025, the Government introduced two new pieces of legislation to Parliament to replace the RMA as follows:
 - a. The Planning Bill – focused on planning to enable development and infrastructure.
 - b. The Natural Environment Bill – focused on managing the natural environment
18. The Government has announced its intention to proceed with the Select Committee process at pace through the first half of 2026, with both bills intended to be passed into law before the 2026 general election. Although the signalled intent is for a quick transition to the new resource management system by the end of 2029, the RMA continues to be in effect until this new replacement legislation is passed, with planning documents prepared under the RMA remaining in effect until new national direction instruments are prepared, standardised plan content developed and new plans prepared (including Regional Spatial Plans, Natural Environment Plans and Land Use Plans).
19. The Operative Kaipara District Plan (ODP) is thirteen years old and drafted in a matter that is misaligned with both the National Planning Standards and other district plans in the Northland region (being Whangarei and Far North district plans). Substantive work is required to better align it with other planning provisions in the region, as well as with the style, content and format of plans that are likely to be required under the new planning system. The Schedule 1 hearing process for the PDP is an important part of modernising the district plan and achieving clear and consistent provisions that will better integrate into the new planning system.

20. Once the new legislation is passed, the direction of the new legislation will be considered when making recommendations and alignment will be sought with this direction but only where it is within the scope of submissions to do so. As the new legislation is not yet in force and the content is not finalised, this section 42A report does not consider the direction contained in the new bills. This approach is consistent with a recent decision from the *High Court in Box Property Investments Limited v The Expert Consenting Panel [2025] NZH 1773* which held that decisions must be made based on the law as it currently stands, not on future legislative changes [at 35].
21. This is relevant to contaminated land management as contaminated land concerns both land use regulation and environmental protection. There will be a transition period and at this is stage it is anticipated that transition period will take until 2029.
22. During the transition the existing RMA framework (including the NES-CS) will continue until the new system fully replaces it.

Resource Management Act 1991

23. The RMA is the primary statute for contaminated land management. Kaipara District Council, as a territorial authority, has a function under RMA s31(1)(b)(iia) to control land use for “the prevention or mitigation of any adverse effects of the development, subdivision, or use of contaminated land.” This is the basis for district plan provisions on contaminated land.
24. Under the RMA, district plans are required to align with national environmental standards such as the NES-CS. Section 44 of the RMA provides that a national environmental standard prevails over district plan rules to the extent of any inconsistency. Section 18A of the RMA reinforces this framework by requiring local authorities to exercise their functions in a manner that avoids duplication of controls already provided for under other legislation. Accordingly, district plans should not replicate or restate NES-CS rules or assessment pathways.
25. As such the PDP proposes to remove rules from the KDP that potentially duplicate the NES-CS.

26. National Policy Statements

27. Since notification of the Proposed District Plan, the Government has gazetted the National Policy Statement for Infrastructure 2025 (**NPS-I**), which comes into force on 15 January 2026. The NPS-I recognises infrastructure as nationally significant and requires decision-makers to recognise and provide for the benefits of infrastructure and its operational and functional needs.
28. Infrastructure is relevant to the contaminated land chapter because infrastructure development, operation, maintenance, and upgrading may involve land disturbance and land-use activities on sites that are, or may be, contaminated. Under the NES-CS, activities such as earthworks, excavation, installation or replacement of underground services, and changes in land use can trigger

requirements to identify, assess, and manage contaminated soil to protect human health. Infrastructure often has a functional or operational need to locate on specific sites, including historically contaminated land.

29. The New Zealand Coastal Policy Statement 2010 and the National Policy Statement on Freshwater Management 2020, and the National Policy Statement for Freshwater Management are indirectly relevant. The Contaminated Land chapter works alongside these NPS directions by ensuring that contamination risks are considered in land-use decisions, especially in coastal and freshwater areas, and when planning for urban growth.
30. Contaminated land can constrain urban intensification or redevelopment, have adverse effects on the coastal environment, water bodies and freshwater ecosystem. The proposed objectives and policies coupled with the other provisions in the Coastal Environment Chapter and applicable zones, ensure that contaminated land is appropriately managed within these sensitive environments.
31. **National Environmental Standards**
32. The NES-CS is the key national direction instrument for contaminated land, which provides nationally consistent rules and standards and prevails over plan provisions where there is any inconsistency.
33. The Contaminated Land chapter objectives and policies do not regulate discharges or contaminants themselves, but provide land-use assessment guidance under s31 of the RMA where contaminated land may exacerbate adverse effects beyond the scope of the NES-CS.
34. **Regional Policy Statement for Northland**
35. The Regional Policy Statement for Northland (**RPS**) was made fully operative in 2018. The RPS does not specifically address contaminated land. However, it recognises hazardous substances as a region-wide issue (Issue 1.6) and includes objectives and policies to manage risks to people and the environment arising from hazardous substances, including controls to avoid the inundation of hazardous substances in flood hazard areas (Policy 7.1.2(a)). The RPS also includes objectives and methods directed at improving water quality and managing contaminant effects from land use, which are relevant where contaminated land poses risks beyond site boundaries.
36. **Iwi and Hapū Management Plans**
37. S74(2A) of the RMA requires territorial authorities to take into account any relevant planning document recognised by an iwi authority to the extent that its content has a bearing on the resource management issues of the district. Kaipara District contains seven Iwi Authorities.

Te Uri o Hau Settlement Trust

Te Roroa Whatu Ora Trust
 Te Kawerau ā Maki Iwi Tribal Authority
 Ngāti Manuhiri Settlement Trust
 Te Rūnanga o Ngāti Whātua
 Ngātiwai Trust
 Te Rūnanga Ā Iwi Ō Ngāpuhi

38. Four have been established under Treaty Settlement Claims legislation, with the remaining three established under other legislative mechanisms. These three Iwi Authorities are still progressing their own Treaty settlements with the Crown.
39. Iwi and Hapū Management Plans were referenced in the s32 report. A list of the formally recognised iwi and hapū management plans for the Kaipara District is provided below:
- Te Uri o Hau Kaitiakitanga o te Taiao (Te Uri o Hau)
 Nga Ture Mo Te Taiao O Te Roroa (Te Roroa)
 Te Kawerau ā Maki Iwi Management Plan (Te Kawerau ā Maki Iwi Tribal Authority)
 Patuharakeke Hapū Environmental Management Plan 20148 (Patuharakeke)
40. The four iwi management plans (**IHEMPS**) relevant to the Kaipara district were considered as part of developing the PDP, as set out in Section 2.5 of the Section 32 Overview Report. The PDP takes these into account. The s32 reports on Strategic Directions, Sites and areas of significance to Māori, and the Māori Purpose Zone contain the most relevant content, but all chapters of the plan take the IHEMPS into account.
41. **Patuharakeke Hapu Environmental Management Plan 2014** explicitly refers to *contaminated land*. In the “Soils and Minerals” policies, it states that *Patuharakeke are to be involved in decision-making regarding any contaminated land in their rohe*. The same document also refers more generally to *contamination of fresh and coastal waters* and the need to protect aquifers from contamination.
42. The **Te Uri o Hau Environmental Management Plan 2011** refers to *soil contamination* as a natural hazard that must be avoided, remedied, or mitigated in development and subdivision activities.
43. The **Te Roroa Iwi Environmental Policy (reviewed 2019, ratified 2021)** refers to *contamination* in relation to degradation of waterbodies and pollution affecting mauri, including contamination from land use and discharges.
44. In summary, references to contamination and contaminated land are present in the Patuharakeke Hapu Environmental Management Plan 2014, the Te Uri o Hau Environmental Management Plan 2011, and the Te Roroa Iwi Environmental Policy.

45. The Exposure Draft PDP was published in 2022 included draft objectives and policies for contaminated land, which drew no comment from iwi. The draft objectives and policies were carried forward to the PDP. In conjunction with Regional Plan controls, the PDP provisions provide the statutory mechanism through which Iwi/Hapu involvement can be considered under RMA ss 6(e), 7(a) and 8 when contaminated land is part of a proposal. These provisions provide the clear statutory bridge between the iwi management plans and decision-making under the Proposed Kaipara District Plan.

Procedural matters

46. No submitter, prehearing or Clause 8AA meetings have been undertaken on the Contaminated Land chapter. There has been no further consultation undertaken since notification.

Organisation of the report

47. The key issues identified in this report are set out below (arranged by provision):
- a. Contaminated Land chapter Overview and general submissions.
 - b. Contaminated Land objectives;
 - c. Contaminated Land policies; and
 - d. Kauri dieback.

Submissions and further submissions

48. Six submissions containing twenty-three (23) submission points were received on the Contaminated Land provisions. Three further submissions were received containing ten (10) further submission points. The summary of submissions and further submissions pertaining to this section 42A report, and my recommendation for each are attached as Appendix A. The original submission and further submission documents can be found on KDC's website.
49. While all submitters have been read and considered in the summary of submissions (Appendix A), responses have not necessarily been written for each individual submission point. To assist the Hearings Panel in achieving clause 10(2) of the First Schedule of the RMA, I have provided reasons for my recommendations to accept or reject submissions and further submissions generally by themes. Responses have been written for individual submissions that raise matters that differ from other submissions within the same thematic group or that request specific amendments to the provisions.

Recommended changes

50. I have recommended retaining the contaminated land chapter as notified.

51. No PDP maps require amending in response to submissions on the Contaminated Land topic.

Section 32AA evaluation report

52. A section 32AA evaluation is only required for changes recommended since notification. As I have not recommended any amendments, a s32AA evaluation is not required.

3. Topic 1: Contaminated Land chapter Overview and general

Introduction

53. This section addresses submissions requesting amendments to the Overview of the Contaminated Land chapter. This section also addresses more generic submissions on the Contaminated Land chapter where no specific amendments to provisions have been requested.
54. The Contaminated Land chapter Overview section describes generally how land contamination can arise from hazardous substance infiltrating soil, explains the PDP responses to contaminated land, sets out the framework for recognising contamination sources, and sets out provisions to ensure contaminated land is made safe for its intending use.

Analysis

General

55. There was one submission on the note at the end of the Contaminated Land chapter that states 'there are no rules for this chapter'. The Fuel Companies (BP, Mobil & Z Energy) [311.22] supports that there are no rules in the Contaminated Land chapter, and considers that by not having any rules the chapter does not duplicate the NES-CS. I agree with the submission supporting the note at the end of the chapter and think it is appropriate to be included in the district plan provisions for Contaminated Land.
56. Therefore, I recommend accepting this submission from Fuel Companies (BP, Mobil & Z Energy) [311.22].

Overview of the Contaminated Land chapter

57. There were five submissions on the Overview text of the Contaminated Land chapter. Three submitters, Channel Terminal Services Limited [301.27], Clarus [309.50] Silver Fern Farms [287.33], support in its entirety the Overview of the Contaminated Land chapter. Northpower Limited and Northpower Fibre Limited [283.113] consider the chapter unnecessary given duplication with NES-CS. The Fuel Companies (BP, Mobil & Z Energy) [311.16], but support the intent on the proviso that their alternative wording is adopted.

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58. Whilst I agree in principle that it is unnecessary to be duplicating existing regulations, as stated in the s32 Evaluation, Kaipara District Council as a territorial authority has a function under RMA s31(1)(b)(iia) to control land use for “the prevention or mitigation of any adverse effects of the development, subdivision, or use of contaminated land.” This is the basis for district plan provisions on contaminated land. District plan responses to contaminated land issues are supplementary to the direction of the Government through the NES-CS and by the Northland Regional Council in the RPS. The PDP has limited scope, avoiding overlaps with the NES-CS and the regional plan.
59. That approach is consistent with the intent of the RMA sections 44 and 18A to ensure Council align with national environmental standards and reduce unnecessary duplication.
60. However, the absence of district plan rules does not remove the Council’s statutory responsibility under section 31(1)(b)(iia) of the Resource Management Act 1991 to control land use for the prevention or mitigation of adverse effects arising from the development, subdivision, or use of contaminated land. This statutory function extends beyond mere implementation of the NES-CS, which is primarily effects-based and procedural in nature and does not include objectives or policies.
61. I consider that the Overview of the Contaminated Land chapter performs an important and legitimate planning role by clearly articulating the purpose and scope of the district plan provisions, clarifying the interface between district, regional, and national responsibilities, and signalling how contaminated land matters are to be considered in district-level decision-making. In particular, the Overview:
- a. confirms that the PDP does not introduce additional regulatory controls or rules duplicating the NES-CS or the operative Regional Water and Soil Plan;
 - b. explains that the role of the district plan is to provide a supporting policy framework for land-use decisions where contaminated land issues arise, including resource consent applications and plan change proposals; and
 - c. provides transparency and certainty for plan users as to how contaminated land considerations fit within the broader statutory framework.
62. District plan responses to contaminated land are therefore deliberately limited and supplementary in nature, sitting alongside the NES-CS and regional plan provisions rather than replicating them.
63. For these reasons, I consider the overview text to be appropriate, necessary, and useful for clarifying the role of the chapter. I therefore do not recommend any amendments to the Overview of the Contaminated Land chapter in response to submissions.

Recommendations

64. I do not recommend any amendments to the Contaminated Land overview chapter in response to submissions, and recommend accepting and rejecting submissions on the Overview accordingly.

4. Topic 2: Contaminated Land chapter objectives

Introduction

65. The two objectives in the Contaminated Land chapter set out the outcomes expected for Contaminated Land in the Kaipara District. CL-O1 makes it clear that risks associated with contaminated land is managed to protect human health and safety and the environment from unacceptable risk. CL-O2 recognises that remediation and/or site management of contaminated land contributes to the health and wellbeing of communities and increases development opportunities for future use and development.
66. The submissions on the Contaminated Land chapter objectives are largely supportive, with CL-O1 receiving three submissions in support, and one submission requesting amendments. CL-O2 received three submissions in support and two submission requesting amendments.

Analysis

CL-O1

67. Fuel Companies (BP, Mobil & Z Energy) [311.17 and 311.18] request deletion of objectives CL-O1 and CL-O2 and replacing with a combined new objective with the following wording:

CL-O1 Identify and manage contaminated land

Contaminated land is identified and managed so that it remains acceptable and safe for human health and its intended use.

68. The Fuel Companies consider only one combined objective that focuses on identification and management of contaminated land is needed.
69. CL-O1 and CL-O2 provide very different planning functions. CL-O1 is subdivision use and development whilst CL-O2 focuses on remediation and future development. Council's RMA function under s31(1)(b) is to control land use to prevent or mitigate adverse effects from contaminated land. CL-O1 directly addresses this statutory function. It provides district-level guidance that complements the NES-CS and regional plan provisions, ensuring risks to both human health and the wider environment are considered. CL-O2 goes further by promoting positive outcomes via restoring land for future development and sustainable use, which supports

RMA s5(2)(a) (future generations) and RMA s7(b) (efficient use of resources). NES-CS addresses human health but does not include objectives or policies. CL-O1 and CL-O2 together fill this gap, with CL-O1 ensuring safe current use and CL-O2 ensuring long-term remediation and reuse.

70. Each of the objectives provide clarity for the policy cascade. I consider that while a combined objective sounds efficient, it risks losing clarity, weakening policy alignment, and complicating statutory evaluation. Keeping them separate ensures each purpose is explicit and measurable.

CL-O2

71. Northpower Limited and Northpower Fibre Limited [283.114] request amendments to CL-O2 to improve the grammar and add '*the establishment of new infrastructure, or the operation, maintenance, repair and upgrading of existing infrastructure*' to the objective.
72. CL-O2 focuses on promoting remediation and management of contaminated land to enable safe use and development. It is effects-based and outcome-focused, which is appropriate for an objective and does not require activity-specific references. Introducing explicit references to particular activities such as infrastructure would narrow the scope of CL-O2 and risk shifting it from an outcome-based objective to an activity-enabling statement, which is more appropriately addressed through policies elsewhere in the Plan. Infrastructure is already provided for in other PDP chapters. The infrastructure chapter and district-wide provisions explicitly recognise and provide for the operational and functional needs of infrastructure and network utilities. Duplicating this recognition in CL-O2 is unnecessary.
73. As the Contaminated Land chapter contains no rules, amending CL-O2 would not change consent triggers or assessment pathways. Contaminated land matters continue to be managed through the NES-CS.
74. Avoidance of duplication is required. Sections 44 and 18A of the Resource Management Act 1991 require district plans to avoid duplicating national standards. Expanding CL-O2 to reference infrastructure risks implying additional or parallel assessment expectations beyond the NES-CS framework.
75. While the changes requested by the submission would give effect to the NPS-I, I consider that the infrastructure chapter is the appropriate vehicle to give effect to the NPS-I.

Recommendation

76. I recommend retaining CL-O1 and CL-O2 as notified.

5. Topic 3: Contaminated Land policies

Introduction

77. The three policies in the Contaminated Land chapter provide more specificity as to how the Contaminated Land objectives will be met. The three policies in the Contaminated Land chapter set out the practical outcomes for identifying sites, remediation, discouraging disturbance and managing remediation. CL-P1 – Identify contaminated sites, ensures contaminated sites are identified early using reliable sources like the Northland Regional Council's Selected Land-use Register (**SLUR**), promoting coordination between councils for accurate recording and management of contaminated land, and supporting proactive risk management by preventing surprises during subdivision or development. CL-P2 discourages unnecessary disturbance of contaminated land unless it is for remediation purposes, to reduce the risk of spreading contaminants, protect human health and the environment. CL-P3 ensures contaminated land is remediated or managed to safe levels.
78. The submissions on the Contaminated Land chapter policies are largely supportive, although three submissions sought amendments to the wording.

Analysis

CL-P1

79. Four submitters support CL-P1, comprising Northpower Limited and Northpower Fibre Limited [283.115], Channel Terminal Services Limited [301.27], Clarus [309.50], Silver Fern Farms [287.33].
80. A further submission was received from Fuel Companies (BP, Mobil & Z Energy) [FS98.35] which opposes in part Northpower Limited and Northpower Fibre Limited [283.115].
81. Fuel Companies (BP, Mobil & Z Energy) [311.19] request CL-P1 is deleted and replaced with alternate wording that focuses on identification at time of subdivision, change of use, or development; the heading amended to read 'identify contaminated land' instead of referring to contaminated 'site'; and removes reference to coordination with Northland Regional Council.
82. In my opinion 'site' is defined by the PDP and relates back to the record of title as part the Land Transfer Act 2017, whereas 'land' in the PDP is more broadly defined and will lead to confusion. NES-CS and Ministry for the Environment guidelines use the term 'piece of land' or 'site' when defining contaminated areas. In my opinion using the word 'site' aligns with these frameworks, reducing ambiguity in interpretation. Site implies a defined parcel or property boundary, which is critical for:
- a. Site investigations
 - b. Remedial action plans

c. Validation reports

83. In comparison, the term 'land' is broader and could refer to an entire district or region, making the policy harder to apply. Resource consent assessments and property records are organized by site-specific information (e.g., titles, lots).
84. Contamination is usually localized (e.g., former sheep dip area, service station lot). Using 'site' focuses on the actual area of concern rather than an undefined expanse of land. CL-P1 aims to 'identify sites potentially containing contaminated land' using tools like the SLUR. The SLUR is site-based, not broad land-based, so 'site' matches the operational reality.
85. In my opinion retention of the term 'Site' is more appropriate as it provides clarity, aligns with national standards, and ensures the policy is enforceable and practical for property-level decisions. Referring to 'site' ensures policies are actionable at the correct scale.
86. NRC holds key functions under the Regional Plan and the RMA for managing discharges from contaminated land and maintaining the SLUR. Removing NRC would ignore this statutory role and weaken coordination. The SLUR, managed by NRC, is the primary tool for identifying sites with historical or current contamination. CL-P1 explicitly recognises this register for accurate identification. Without NRC, the policy loses its link to the most authoritative dataset. The contaminated land framework depends on collaboration between district councils (land use control) and regional councils (discharge and environmental risk management). Removing NRC undermines this integrated approach and could lead to duplication or gaps. NRC's involvement ensures that remediation and monitoring are coordinated across both regulatory layers, reducing risk and cost for landowners. NRC is not just a reference, it is a critical partner in identifying and managing contaminated land. Removing it would compromise accuracy, compliance, and efficiency.

Recommendation

87. I recommend retaining CL-P1 as notified.

Merging CL-P2 and CL-P3

88. Fuel Companies (BP, Mobil & Z Energy) [311.20], [311.21] request CL -P2 and CL-P3 be deleted and any effects on health be incorporated into a new CL-P2.
89. Director-General of Conservation [FS45.112] further submitted, opposing the Fuel Company submission on the basis that it would create a gap in managing the effects of earthworks, which could adversely impact indigenous biodiversity if left unmanaged.
90. Fuel Companies (BP, Mobil & Z Energy) [311.20] infer that the policies CL-P2 and CL-P3 overstep the Council's responsibilities under the RMA, extending to effects on the environment from

contaminated land. Fuel Companies (BP, Mobil & Z Energy) [311.21] also express concern about the policy implication that some type of site investigation will be needed (e.g. a preliminary site investigation or detailed site investigation). Fuel Companies (BP, Mobil & Z Energy) [311.20] consider that the contaminated land objectives and the policy framework of a contaminated land chapter should focus on human health effects from subdividing, changing use and developing.

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. CL-P2 Prevents unnecessary disturbance of contaminated land during earthworks, reducing the risk of spreading contaminants and CL-P3 sets out best practice remediation and management requirements, including site investigations, remedial action plans, and safe disposal of contaminated soils. In my opinion, combining them into one health-focused policy would blur these distinct purposes and weaken clarity for consent assessments.
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.
93. In practical application, infrastructure projects, earthworks, and remediation often involve complex contamination risks beyond health (e.g., containment systems, disposal of hazardous soils). CL-P3 provides detailed guidance for these scenarios. Removing it could reduce certainty for applicants and increase compliance risks.
94. I consider that combining CL-P2 and CL-P3 into one health-only policy would narrow the scope, reduce clarity, and undermine statutory and best practice requirements. Keeping them separate ensures a full framework for identification, risk management, and remediation and is the approach I prefer.

Recommendation

95. I recommend rejecting the request to combine CL-P2 and CL-P3 from Fuel Companies (BP, Mobil & Z Energy) [311.20], [311.21].

Infrastructure

96. Northpower Limited and Northpower Fibre Limited [283.116], request that CL-P2 is amended to allow for soil disturbance on contaminated sites for new or existing infrastructure.

97. A further submission was received from Fuel Companies (BP, Mobil & Z Energy), [FS98.36] opposing Northpower Limited and Northpower Fibre Limited [283.116].
98. Northpower Limited and Northpower Fibre Limited [283.116], request that CL-P2 is amended 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.

99. Infrastructure and associated activities are managed through the Infrastructure chapter. The Contaminated Land chapter contains no rules, and any requirements relating to contaminated land are triggered and managed through the NES-CS. The submission does not identify any additional adverse effects that are not already addressed through that framework. Including additional direction specific to infrastructure within the Contaminated Land chapter risks duplicating provisions in other chapters and implying additional assessment expectations beyond those required under national regulation, contrary to sections 44 and 18A of the Resource Management Act 1991.
100. I consider that the amendment sought is not required. The chapter is deliberately limited to objectives and policies that support the implementation of the NES-CS and does not provide activity-specific enabling provisions or controls. I consider that the amendments sought would not alter consent pathways or provide additional certainty for plan users.
101. Northpower Limited and Northpower Fibre Limited [283.117], request that CL-P3 is amended to remove repeating the term 'avoid' and ensuring that assessments can use the tools available to avoid, remedy or mitigate adverse effects. The submission instead seeks to insert the words 'protects' and 'and safety' in CL-P3 clause 4.
102. A further submission was received from Fuel Companies (BP, Mobil & Z Energy), [FS98.37], that opposes in part the submission from Northpower Limited and Northpower Fibre Limited [283.117].
103. Northpower Limited and Northpower Fibre Limited [283.117] request that CL-P3 include the following amendments:

CL-P3

1. *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~~*

104. Northpower Limited and Northpower Fibre Limited [283.117] opposes the use of “avoids further effects” in clause 4 of this policy for the reason that it is inconsistent with the objectives and does not recognise that avoidance is not achievable nor necessary in every scenario. Northpower considers that the full range of the effects hierarchy (e.g., avoid, remedy or mitigate) should be available.
105. CL-P3.4 addresses a known specific and critical aspect of contaminated land management: the disposal of contaminated soil. This clause warrants a higher threshold of environmental protection than other aspects of contaminated land management and the use of “avoids” aligns with the intent of the NES-CS. For disposal activities where contaminated material is being moved off-site, “avoidance” is the appropriate threshold because the contamination already exists (it is not being created), the disposal method and location are choices within the applicant’s control, alternative disposal methods that avoid creating new contamination sites are available and the effects of poor disposal practices can be long-lasting and difficult to remedy.
106. CL-P3 uses “avoid, remedy or mitigate” in its chapeau for general management and remediation activities. This provides appropriate flexibility for in-situ treatment, containment, and site management where the contamination remains on the original site. Clause 4 is specifically about disposal - a subset of activities that justifies the higher “avoids” threshold. While Northpower’s general point about effects hierarchy flexibility has merit for many contaminated land activities, disposal is the exception that proves the rule:
- Infrastructure projects that generate contaminated soil can still dispose of it - they just need to use appropriate facilities.
 - The standard does not constrain infrastructure development.
 - It prevents the creation of new contamination sites through inappropriate disposal; and
 - This protects both human health and the environment in accordance with RMA purposes.
107. The NES-CS Regulation 13 addresses soil disturbance and disposal. While the NES-CS focuses on human health, the district plan appropriately extends protection to environmental effects. The requirement for the disposal of contaminated soils to ‘avoid’ further effects rather than including ‘remedy’ or ‘mitigate’ effects acknowledges the inherent known risks with disposal of contaminated soils, and underpins the precautionary approach and intent to prevent the spread of contaminants. Therefore, I recommend Northpower’s submission point [283.117] be rejected.

Recommendation

108. I recommend retaining CL-P2 as notified.
109. I recommend retaining CL-P3.4 as notified.

6. Topic 4: Contaminated Land policies kauri dieback

Introduction

110. The submission from Director-General of Conservation [304.58] requests amending CL-P2 to ensure earthworks do not have the potential to create adverse effects associated with kauri die back. Director-General of Conservation [304.59] also requests a coordinated change to CL-P3 to amend this policy to ensure effects of kauri dieback are avoided, remedied, or mitigated using reference to the rules in Biosecurity (National PA Pest Management Plan) Order 2022 (SL 2022/208).
111. A further submission was received from Forest and Bird [FS93.168], [FS93.168] supporting the submission from Director-General of Conservation although no reasons are provided.
112. A further submission was received from Fuel Companies (BP, Mobil & Z Energy) [FS98.38], [FS98.39] opposing the inclusion of reference to kauri die back in either CL-P2 or CL-P3.

Analysis

113. I acknowledge and support the efforts to reduce the effects of kauri dieback. Soil that may be affected by kauri dieback is not recorded under the HAIL list or on the SLUR, therefore there is no corresponding mechanism to identify kauri dieback areas as contaminated land. The contaminated land provisions only activate when land is known or suspected to be contaminated, and without a corresponding kauri dieback record for specific sites on the HAIL list or SLUR, Council could not reliably enforce this. The risk associated with kauri dieback arises whenever earth is moved, universally across the district.
114. I note Director-General of Conservation [304.122] has included a request for provisions to be included in the earthworks chapter. I consider this is a more appropriate approach and that the reporting planner consider the submission point via the s42A for the earthworks chapter.

Recommendation

115. I recommend retaining CL-P2 and CL-P3 as notified.