

Proposed Selwyn District Plan



Section 32 Report

Hazardous Substances and Contaminated Land

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1. Executive Summary

Section 32 of the Act requires objectives in plan change proposals to be examined for their appropriateness in achieving the purpose of the Resource Management Act 1991 ('the Act' or 'the RMA'), and the policies and methods of those proposals to be examined for their costs, benefits, efficiency, effectiveness and risk in achieving the objectives. The analysis set out in this report is to fulfil the obligations of the Council under s32 of the Act.

This section 32 evaluation report relates to the evaluation of options for the management of Hazardous Substances and Contaminated Land (HSCL) through the Selwyn District Plan. This s32 is made up of two chapters, addressing Hazardous Substances and Contaminated Land. These chapters apply District-wide.

Hazardous substances are primarily controlled by the Hazardous Substances and New Organisms Act 1996 (HSNO Act). The HSNO Act provides the general framework for controlling hazardous substances during their entire life-cycle. Requirements apply from manufacturing or importing a substance, through its use, to disposal.

The subdivision, development and use of contaminated or potentially contaminated land is governed by the requirements of the Resource Management (National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health) Regulations 2011 (NESCS). The District Plan must recognise and give effect to the NES through its objectives and policies.

The District Plan seeks only to control matters in relation to hazardous substances and contaminated land that are not covered by other more specific legislation or the functions of the Canterbury Regional Council. It does not seek to duplicate the provisions of existing legislation or HSNO approvals.

This report evaluates the resource management issues, including a review of the operative Selwyn District Plan provisions and evaluation of alternatives.

The key changes from the operative Selwyn District Plan are:

1. No specific volume thresholds in terms of storage of hazardous substances. This is considered to be managed under the HSNO Act.
2. Large facilities or 'Major Hazard Facilities', which have the potential to adversely effect surrounding properties, are managed individually through a quantitative risk assessment and that these facilities are directed to established in industrial zones.

The Selwyn District Plan contains a chapter of Strategic Objectives that set the overall management framework for the district. Strategic Objectives of particular relevance to the HSCL Chapter include:

- **Objective: Sensational Selwyn**
- **Objective: District Well-being and Prosperity**
- **Objective: Natural Hazards**

The HSCL chapters will assist the Council to fulfil its statutory functions and responsibilities as required by the Act through the following proposed objectives, policies and rules:

- Objective to identify the benefits of activities using, storing, disposing and transporting hazardous substances while recognising the risks of major hazard facilities.

- Policies ensuring major hazard facilities locate in a way that reduces risk, including reverse sensitivity, cumulative effects and hazard overlays.
- Rules permitting sites which use or store hazardous substances.
- Rules managing major hazard facilities.
- Definitions for 'Major Hazard Facility', 'Contaminated Land', 'Potentially Contaminated Land', 'Hazardous Substance', and 'Residual Risk'.

Appendix 1 sets out the linkages between all provisions in the HSCL chapters. The draft plan provisions (in the chapter format) are included as **Appendix 2**.

2. Overview and Purpose

This s32 evaluation report should be read in conjunction with the s32 'Overview Report', which also includes an overview of the s32 legislative requirements, the methodology and approach to the s32 evaluations and the process that the Council has undertaken to date through its District Plan Review, including consultation and engagement.

2.1 Introduction to the resource management issues

The evaluation of the appropriateness of the HSCL chapters is based on the following two key issues:

Hazardous Substances Issue 1: Managing Residual Risks from the use, storage or disposal of hazardous substances

While the HSNO Act contains controls to manage environmental and human health and safety risks, it does not address all potential effects, this is called the residual risk. These effects are generally from low probability but high impact facility and the extent to which they could potentially impact the wider environment. In the RMA, the focus should be on ensuring the risk of adverse effects is acceptable, rather than risk avoidance, as that is the role of the HSNO Act. The issues of residual risk can be broken down as follows:

Issue 1A – Cumulative effects of low probability and high impact facilities located near each other

Low probability but high impact facilities that are situated close to each other may generate a cumulative risk of effects that is greater than the risk from each individual site, because of the adverse and synergistic effects that can arise when hazardous substances are accidentally combined. The most likely area for this to occur currently would be the Izone Business Park at Rolleston or other Industrial zoned land, where potentially a number of low probability but high impact facilities could occur in relatively close proximity to each other.

Issue 1B – Potential effect of low probability and high impact facilities on sensitive activities and/or sensitive natural environments

Hazardous substances from low probability but high impact facilities can pose a risk if located close to sensitive activities (such as residential areas or schools) or sensitive areas such as waterbodies, sites of significance to Maori or impacted by natural hazards. This is because the extent of effect from these

facilities can be greater than the site. The majority of sites using or storing hazardous substances in the District are small, and generally do not use complex combinations of different types of hazardous substances. However, low probability and high impact facilities can potentially effect their surrounding environment. Reverse sensitivity issues may arise from new sensitive activities locating close to an identified low probability and high impact facility. The presence of established sites that use and store hazardous substances in areas zoned to accommodate them should be recognised when the location of new sensitive activities is being considered.

Issue 1C – Risk from low probability and high impact facilities in natural hazard events that could affect the sites, and residual risks to public safety.

The controls on hazardous substances required for compliance with the HSNO Act (e.g. packaging, secondary containment, emergency management and more general hazard management) are designed to protect against the risk of discharge in natural hazard events.

However, areas subject to major flood events and geotechnical risk may need additional controls to ensure that hazardous substances are protected against inundation by flood waters or seismic events. While the HSNO Act contains controls to manage environmental and human health and safety risks, it does not provide the same level of control and assessment around site selection/location.

Contaminated Land Issue 2: There is an element of risk to the environment associated with the use and development of any potentially contaminated land in the District.

Land can become contaminated when hazardous substances are not used, stored or disposed of in a safe way. People can be exposed to contaminated land by direct contact with contaminated soil, swallowing food or water from contaminated environments and breathing vapors or contaminated dust.

Investigations of potentially contaminated land in Selwyn District since the earthquakes of 2010 and 2011 have shown that while there may be contaminant ‘hot spots’ in and around areas where concentrated farm chemicals and fuels have been stored or used, in general contamination of soils in the District is not a major issue. However, most subdivision in the District occurs on greenfield rural sites. These sites may have been subject to herbicide/pesticide use, had sheep dips located on them in the past, or have been the sites of other potentially contaminating agricultural activities.

However, the NESCS only manages the risk of contaminated land to human health but does not extend to managing risks to the environment. Furthermore, the NESCS does not include any objectives or policies to assist in the assessment of applications made pursuant to the NESCS. These are considered matters that need to be addressed by the District Plan.

The Section 32 evaluation report is structured according to the issues identified above, with the relevant objectives, policies and methods intended to address each issue being packaged together to provide a clear ‘line of sight’ between the issue and relevant provisions.

Objectives, policies and methods (including rules) addressing hazardous substances and contaminated land are proposed to be updated from those in the operative Selwyn District Plan. The HSCL chapters seek to remove overlaps, and only control matters that are not covered by specific legislation such as the HSNO

Act, the NESCS or other functions of the Canterbury Regional Council. Therefore, the focus is on specific matters such as proximity of hazardous substances and contaminated land to sensitive areas and activities which may result in adverse effects to the environment.

2.2 Regulatory and policy direction

Part 2 of the RMA

In carrying out a s32 analysis, an evaluation is required of how the proposal achieves the purpose and principles contained in Part 2 of the RMA. Section 5 sets out the purpose of the RMA, which is to promote the sustainable management of natural and physical resources. Sustainable management includes managing the use, development, and protection of natural and physical resources to enable people and communities to provide for their social, economic and cultural wellbeing and for their health and safety. In achieving this purpose, authorities need also to recognise and provide for the matters of national importance identified in s6, have particular regard to other matters referred to in s7 and take into account the principles of the Treaty of Waitangi referred to in s8.

A number of provisions have been included in the HSCL chapters in response to the requirements in Part 2, including:

Section 6, which identifies matters of national importance. Those relevant to these chapters are:

- (a) *the preservation of the natural character of the coastal environment (including the coastal marine area), wetlands, and lakes and rivers and their margins, and the protection of them from inappropriate subdivision, use, and development;*
- (e) *the relationship of Maori and their culture and traditions with their ancestral lands, water, sites, waahi tapu and other taonga);*
- (h) *the management of significant risks from natural hazards.*

Section 7, which identifies other matters. Those relevant to this chapter are:

- (a) *kaitiakitanga;*
- (b) *the efficient use and development of natural and physical resources;*
- (f) *maintenance and enhancement of the quality of the environment.*

Section 8, where all persons exercising functions and powers under the RMA shall take into account the principles of the Treaty of Waitangi (Te Tiriti o Waitangi).

The above matters are relevant to the HSCL Chapter because if not managed appropriately hazardous substances and contaminated land can have adverse effects on communities, property and the environment. While hazardous substances and contaminated land are primarily controlled and managed through other legislation (described further below), some potential risk remains (residual risk). The HSCL chapters seek to address the resource management issues and achieve the purpose and principles contained in Part 2 of the RMA.

National Instruments

The following national instruments are relevant to these chapters:

1. Resource Management (National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health) Regulations 2011 (NESCS)

The NESCS applies to certain activities undertaken on ‘pieces of land’ on which any potentially contaminating activity on the Ministry for the Environment’s Hazardous Activities and Industries List (the HAIL) is occurring, has occurred, or is more likely than not to have occurred.

The NESCS provides a nationally consistent set of planning controls for contaminated land. It ensures that contaminated land is identified, assessed, and (if necessary) made safe for human activity, although it does not address environmental effects of contaminated land. The NESCS also does not contain objectives or policies to guide decisions made under its rules. All territorial authorities are required to observe and enforce the requirements of the NESCS.

At present there are no national policy statements applicable to the HSCL provisions, and the New Zealand Coastal Policy Statement is not relevant to this chapter.

National Planning Standards and/or Guidance Documents

The Ministry for the Environment National Planning Standards (April 2019) contain the following aspects of relevance to this topic:

1. Section 7. District-wide Matters Standard – This specifies that if the following matters are addressed in the plan they must be under the *Hazards and risks* heading:
 - If provisions to manage contaminated land are addressed, they must be located in the *Contaminated land* chapter.
 - If provisions relating to hazardous substances are addressed, they must be located in a chapter titled *Hazardous substances* under the *Hazards and risks* heading.
2. Section 14. Definitions Standard – This standard specifies mandatory definitions to improve plan consistency across the country.

Regional Policy and Plans

The following regional policy statement and plan are relevant to these chapters:

1. Canterbury Regional Policy Statement 2013

The Canterbury Regional Policy Statement 2013 (CRPS) sets out the strategic framework for managing the use, development and protection of the natural and physical resources of the Canterbury region in an integrated and co-ordinated manner. Under the RMA, authorities must give effect to the CRPS.

Chapter 2 of the CRPS sets out resource management issues of significance to Ngāi Tahu and their desired outcomes in addressing those issues. Issues identified in Chapter 2 are addressed throughout various chapters of the CRPS so that they are integrated within the overall resource management framework, including in relation to hazardous substances and contaminated land.

Chapter 18 is the principal chapter relating to hazardous substances in the CRPS and provides for adverse effects on the environment from the storage, use, disposal and transportation of hazardous substances to be avoided, remedied or mitigated. Chapter 18 explains that territorial authorities have the responsibility for specifying the objectives, policies and methods for the control of the use of land for the purpose of preventing or mitigating the adverse effects of the storage, use, transport or disposal of hazardous substances on the environment.¹ The responsibility of preventing or mitigating effects on the quality of air and water rests with the Canterbury Regional Council.

¹ Note that the CRPS was prepared prior to the amendment to the RMA that removed the explicit responsibility for the control of the use of land for the purpose of preventing or mitigating the adverse effects of the storage, use, transport or disposal of hazardous substances on the environment from territorial authorities.

Chapter 17 is the principal chapter relating to contaminated land in the CRPS and provides for the protection of people and the environment from both on-site and off-site adverse effects of contaminated land.

Chapter 11 is also relevant as it provides a framework for managing natural hazard risk in Canterbury. It also sets out the responsibilities of the local authorities in the region for the control of land-use to avoid or mitigate natural hazards.

2. Operative Canterbury Land and Water Regional Plan

Section 4 of the Canterbury Land and Water Regional Plan (the CLWRP) outlines policies relating to a wide variety of resource management matters.

Policies 4.24 - 4.30 relate to hazardous substances and hazardous activities but are focused on matters that fall within the regional council's jurisdiction (that is, primarily discharges). Policy 4.25 applies to land use, and sets priorities for the management of hazardous substances on sites.

Rules 5.179 – 5.184 relate to hazardous substances. The rules relate to the use of land for storage of hazardous substances, and for decommissioning containers that have been used to store hazardous substances.

In relation to Contaminated Land, Policy 4.19 – Discharge of contaminants to groundwater from contaminated land, seeks that discharge is avoided or minimised by, *inter alia*, managing and monitoring contaminated land. Depending on what 'managing' means, there is an overlap with the District Plan.

Rules control a variety of discharges onto (and from and into in relation to stormwater discharges) contaminated land and taking of groundwater from contaminated or potentially contaminated land.

Rules 5.185 – 5.188 relate to the use of land for site investigations and to the passive discharge of contaminants from contaminated land. Rule 5.185 permits the use of land for a site investigation. Rule 5.187 permits the passive discharge of contaminants from contaminated land. This rule covers all contaminated land in the region and means that some sites may require consent from both ECan and Selwyn District.

3. Any proposed Regional Plan

There are no proposed Regional Plans at this time.

Mahaanui Iwi Management Plan

The Mahaanui Iwi Management Plan (IMP) does not specifically mention or consider hazardous substances as an issue per se. Instead the only matter of identified concern to iwi that (potentially) involves hazardous substances is that of weed and pest control where, in Issue TM4 "Weed and Pest Control", Policy TM4.2 requires that weed and pest control should be "addressed in a manner that is consistent with Ngāi Tahu values". Specifically, the approach must be to "Minimise the use of hazardous substances, and give preference to natural solutions (trapping possums, establishment of riparian margins for shading aquatic weeds)".

Further detail is provided under Issue TM5 where the use of 1080 for possum control is addressed, with Ngāi Tahu "continuing to have significant reservations about the use of 1080". It is clear, through various policies in relation to 1080 that the use of 1080 is of significant concern to iwi, although its continued use may be sanctioned under defined circumstances.

No other hazardous substances issue receives specific attention in the Mahaanui Iwi Management Plan.

The IMP identifies Ngāi Tahu involvement in decision making about contaminated land as an issue (Issue P10). The requirements of Ngāi Tahu are clear, through policies P10.1 – P10.4, in terms of management of contaminated land, avoidance of environmental and cultural effects that may arise from contamination and full and open information sharing such that the risks can be fully understood.

Local policies, plans or strategies

There are no local policies, plans or strategies directly relevant to this topic.

Any other relevant legislation or regulations

It is considered that the following legislation / regulations are relevant to these chapters:

1. Hazardous Substances and New Organisms Act 1996
2. Health and Safety at Work Act 2015 and the Health and Safety at Work (Hazardous Substances) Regulations 2017

Hazardous substances are primarily controlled by the Hazardous Substances and New Organisms Act 1996 (HSNO Act). The purpose of the HSNO Act is to protect the environment, and the health and safety of communities, by preventing or managing the adverse effects of hazardous substances and new organisms.

All hazardous substances are required to have approval under the HSNO Act. When a substance is approved, controls are applied that are designed to manage any risk from using, storing, transporting and disposing of the substance.

The HSNO Act is largely administered by the Ministry for the Environment and implemented by the Environmental Protection Authority (EPA). However, from December 2017, the rules around managing hazardous substances that affect human health and safety in the workplace have been transferred from the HSNO regime to the Health and Safety at Work Act (HSW Act), with these rules given effect within the Health and Safety at Work (Hazardous Substances) Regulations 2017 and administered by WorkSafe New Zealand.

The HSNO Act (and now supplemented by the HSW Act) provides the general framework for controlling hazardous substances during their entire life-cycle. The District Plan does not seek to duplicate the provisions of existing legislation but rather any risk of an adverse effect that remains after other industry controls and legislation.

3. Resource Management Issue Analysis

3.1 Background

The two key issues in relation to hazardous substances and contaminated land are set out in Section 2.1 above.

3.2 Evidence Base - Research, Consultation, Information and Analysis undertaken

Research

The Council has reviewed the current District Plan, commissioned technical advice and assistance from various internal and external experts and utilised this, along with internal workshops and community feedback to assist with setting the plan framework. This work has been used to inform the identification and assessment of the environmental, economic, social and cultural effects that are anticipated from the implementation of the provisions. This advice includes the following:

Title	District Plan Review – Hazardous Substances and Contaminated Land Baseline Report.
Author	Stantec NZ
Brief Synopsis	Review of provisions relevant to HSCL in the operative Selwyn District Plan, adjacent territorial authorities' District Plans, the Mahaanui Iwi Management Plan; and identification of issues, gaps and opportunities as well as recommendations for an approach to the management of HSCL in the Selwyn District.
Conclusion	The Council should rely on HSNO and manage any residual risk, especially when near sensitive activities and hazards.
Link to Document	https://www.selwyn.govt.nz/_data/assets/pdf_file/0004/253588/1.-Baseline-Report-Hazardous-Substances-and-Contaminated-Land-DW012-Final-Baseline-Report.pdf

Title	District Plan Review – Hazardous Substances and Contaminated Land Preferred Option Report.
Author	Stantec NZ
Brief Synopsis	Report to the District Plan Committee summarising key resource management issues in relation to hazardous substances and contaminated land and recommendation of preferred option to policy approach for the HSCL chapters of the proposed District Plan.
Conclusion	<p>Management of the use of hazardous substances and contaminated land is dealt with primarily through the Hazardous Substances and New Organisms Act 1996, the Health and Safety at Work Act 2015 and the National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health, rather than using District Plan provisions.</p> <p>District plan provisions are retained to manage the storage and use of hazardous substances in close proximity to sensitive sites or areas, such as residential areas, schools, significant natural or ecological features and sites of importance to tangata whenua, but should be integrated within the zone provisions.</p> <p>Cumulative effects of the storage and of use of hazardous substances are managed through a combination of zoning and land use rules, for example by enabling industrial</p>

	activities to occur within industrial land zoning, but not permitting it within residential zoning.
Link to Document	https://www.selwyn.govt.nz/_data/assets/pdf_file/0009/259875/Endorsed-Preferred-Options-Report-DW212-Hazardous-Substances-and-Contaminated-Land.pdf

In addition to the material listed in the table above, the Council has also gathered the following information and advice which is relevant to this matter:

- ECan's Listed Land Use Register (LLUR) overlaid onto Google Maps**
 There is no list or schedule available with respect to sites storing or using hazardous substances in Selwyn District. As part of the Baseline Report, ECan's Listed Land Use Register (LLUR) was overlaid onto Google Maps to prepare diagrammatic presentations of sites (or, at least, those known to ECan) which currently have or have had hazardous substances stored or used on them. While the LLUR is aimed at identifying contaminated land, it acts as a proxy for the identification of properties where hazardous substances are either currently being used or stored or where this has occurred historically. It is noted that the LLUR is by no means complete and is only as comprehensive as the information available to ECan, on the basis of which it has been developed.
- Review of resource consents**
 A review of recent resource consents was undertaken and is discussed in Section 3.1.3 of the Baseline Report.
- Review of site investigation reports**
 A review of a large-scale preliminary site investigation (PSI) report prepared by Tonkin & Taylor Ltd with respect to land in Selwyn District potentially available for rezoning and ensuing residential development. Several individual site investigations were also available and reviewed as part of the Baseline Report. Findings of the review of site investigations reports are discussed in Section 3.3 of the Baseline Report.

MfE guidelines – Quality Planning Website

MfE published a guideline to managing hazardous substances through the District Plan (<https://www.qualityplanning.org.nz/node/695>). The guidance outlines that specific activities potentially need to be managed if they pose a risk off-site. Most facilities' risks are managed through the HSNO and HSW Acts, even cumulative and reverse sensitivity effects. For larger facilities, these could require additional management. These are outlined as 'major hazard facilities' that are identified through the Health and Safety at Work (Major Hazard Facilities) Regulations 2016. These facilities exceed the upper thresholds outlined in the regulations. The guidance recommends that a site-specific risk assessment is undertaken to understand the probability of a particular risk.

The last element of the guidance suggests identifying specific sensitive land uses that may require additional protection.

This information has been used to inform the District Plan Review and this s32 evaluation.

Consultation and Engagement

Through the development of the proposed provisions, the Council undertook initial consultation and engagement specifically on this matter as follows:

- Discussions with ECan about the requirements of the Canterbury Regional Policy Statement, which has been superseded by the Resource Legislation Amendment Act 2017, were undertaken on 19 February 2018. Staff from ECan were supportive of removing duplication between the District Plan and legislation.
- Engagement with landowners and stakeholders comprised in a feedback register. Feedback was received from both Horticulture New Zealand and the Oil Companies. In summary, parties were supportive of direction to remove duplication with legislation which primarily manages hazardous substance and contaminated land.

The first draft of plan provisions were distributed to Z Energy Limited, BP Oil New Zealand Limited and Mobil Oil New Zealand Limited (the Oil Companies) as well as the Crown Research Institutes (AgResearch and Plant and Food) and Lincoln University for comment.

All parties expressed concern that the provisions, as drafted at the time, would appear to necessitate resource consent requirements for almost all new facilities and/or were a duplication of other legislation. Concerns were raised that the drafting also identified consent requirements for activities occurring within overlays yet to be identified, noting if the intent of Council is to focus on natural hazard overlays, the affected areas may not be as wide but may still apply to significant parts of the district (i.e. potential liquefaction).

These concerns are largely addressed through the development of the plan provisions through the permitted activity status and reliance on the zoning framework.

RMA First Schedule Consultation

The RMA requires councils to undertake pre-notification consultation with those parties identified in Schedule 1, clause 3, during the preparation of a proposed district plan. These parties include:

- the Minister for the Environment;
- those other Ministers of the Crown who may be affected by the proposed plan;
- local authorities who may be so affected; and
- the tangata whenua of the area who may be so affected, through iwi authorities.

As a result of this consultation, written feedback was received from Christchurch City Council, Environment Canterbury and Department of Conservation. An overview of their feedback and a summary of recommended amendments to draft provisions is contained in a report that was presented to the District Plan Committee on 18 March 2019, as per details below.

Title	First Schedule Consultation (March 2019)
Author	Justine Ashley, District Plan Review Project Lead, with input from Topic Leads, Selwyn District Council
Brief Synopsis	This report provides a summary of the pre-notification feedback received from RMA First Schedule consultation on the draft Proposed District Plan provisions and the subsequent amendments recommended by Topic Leads.
Link to Document	https://www.selwyn.govt.nz/_data/assets/pdf_file/0008/352196/First-Schedule-Consultation-Report-to-DPC.pdf

Iwi Authority Advice

Clause 4A of Schedule 1 of the RMA sets out the specific requirements for local authorities to consult with iwi authorities before notifying a proposed plan and to have particular regard to any advice received from those iwi authorities. Access to the draft ePlan and Planning Maps was provided to the iwi authority (Te Rūnanga o Ngāi Tahu) on 17 December 2019 and feedback was invited until 28 February 2020. While no formal response was received from the iwi authority during this pre-notification consultation period, Te Rūnanga o Ngāi Tahu had previously indicated that they were satisfied that Mahaanui Kurataiao Limited were providing the necessary input into draft provisions on behalf of Te Taumutu Rūnanga and Ngāi Tūāhuriri Rūnanga. In addition, the detailed feedback that has been provided by Te Taumutu Rūnanga Advisory Group is also acknowledged in this context.

3.3 Operative District Plan Provisions

Sections 2.1.1 and 2.1.2 of the Baseline Report provide a brief outline of the hazardous substances and contaminated land provisions in the operative Selwyn District Plan. The provisions themselves, the appendices listing hazardous substances, and the relevant definitions, are contained in Appendix A of the Baseline Report.

Provisions relating to hazardous substances and contaminated land are spread throughout the District Plan, in both the Township Volume and the Rural Volume. There is also a considerable degree of interlinkage between the hazardous substances and contaminated land provisions, as hazardous substance spills, leaks and disposal are considered to be primary potential causes of contaminated land.

In summary, the key conclusions from the analysis is that the 2nd generation District Plan need only include provisions for managing hazardous substances that are more stringent than those that are provided for by the coverage of the HSNO Act. This might include removing all Activity Status Schedules from the District Plan's Appendices and relying on s17 to address amenity issues and nuisance effects where these are not dealt with by the HSNO Act.

With respect to the management of contaminated land in the district the conclusion of the analysis is that the NESCS provides all necessary control mechanisms relevant to Council's functions to enable the efficient and effective management of such land. A key recommendation is that the consenting requirements of the NESCS should be cross-referenced within the 2nd generation District Plan, for the reason that district plans cannot duplicate the provisions contained in the NESCS, by virtue of s44A (4) and (5) of the RMA.

3.4 Analysis of best practice – how other councils are addressing the same issue

A review of current practice in respect of this matter has been undertaken, together with a review of the following District Plans:

- Ashburton District Plan (Operative 2014);
- Christchurch District Plan (Operative 2016);
- Waimakariri District Plan (Operative 2005);
- Hurunui District Plan (2003); and
- Proposed Hurunui District Plan (notified May 2015, decisions released October 2016).

These plans were chosen as these territorial authorities are adjacent to Selwyn district and two of them became operative relatively recently (Ashburton and Christchurch District Plans operative in 2014 and 2016 respectively). The details of the review are contained in Section 2.6 of the Baseline Report. In summary, the findings of the review are:

- The operative Ashburton, Selwyn and Hurunui District Plans all currently take a similar approach of specifying comprehensive lists of hazardous substances, with threshold volumes tied to rule classifications, and seek to control many activities using, storing, manufacturing and disposing of hazardous substances.
- The Waimakariri District Plan takes a more constrained approach, including a much more limited list of hazardous substances and applying controls only in residential areas.
- The Proposed Hurunui District Plan and the Christchurch District Plan both reflect recent practice to substantially remove hazardous substances provisions from district plans (in order to avoid overlaps with other legislation, particularly HSNO), with very few policies, and rules that relate only to specifically identified issues in each district.
- In relation to contaminated land, only two of the district plans of adjacent territorial authorities (Proposed Hurunui District Plan and Christchurch District Plan) have objectives and policies specifically relating to management of contaminated land.
- Waimakariri District is currently reviewing its district plan and is considering whether to include provisions on contaminated land.
- None of the adjacent district plans have rules for contaminated land.

3.5 Summary of the Issues Analysis

The analysis through the Baseline and Preferred Option Report identifies that principally the provisions of the HSNO Act and the NESR should be relied on for the management of hazardous substances and contaminated land. On this basis, the following recommendations are made:

- Through the District Plan, the management of the residual risks from sites using, storing or disposing of hazardous substances should rely HSNO and HSW Act and that zone provisions should generally manage activities, through setbacks and activities.
- The management of major hazard facilities, through requiring a consent to establish and provide a site-specific risk assessment. Avoiding the establishment of major hazard facilities in natural hazard areas.
- Appendices 9 and 15 and their associated rules should not be carried through into the new District Plan. The volumes of hazardous substances contained in these appendices both overlap and conflict (by being more stringent) with those contained in the Hazardous Substances Regulations and lead to an unhelpful level of confusion for District Plan users.
- Relevant definitions are fit for purpose and consistent with current national approaches.

4. Scale and Significance Evaluation

The level of detail undertaken for the evaluation of the Proposed District Plan provisions has been determined by an assessment of the scale and significance of the implementation of these provisions. The scale and significance assessment considers the environmental, economic, social and cultural effects of the provisions. In making this assessment regard has been had to the following, namely whether the provisions:

	Low	Low-Moderate	Moderate	Moderate-High	High
Degree of change from the Operative Plan				✓	
Effects on matters of national importance (s6 RMA)		✓			
Scale of effects – geographically (local, district wide, regional, national)					✓
Scale of effects on people (how many will be affected – single landowners, multiple landowners, neighbourhoods, the public generally, future generations?)	✓				
Scale of effects on those with particular interests, e.g. Tangata Whenua		✓			
Degree of policy risk – does it involve effects that have been considered implicitly or explicitly by higher order documents? Does it involve effects addressed by other standards/commonly accepted best practice?	✓				
Likelihood of increased costs or restrictions on individuals, businesses or communities.	✓				

Both Hazardous Substances and Contaminated Land are provided for in higher order planning documents which Council is required to give effect to or consider in the District Plan, but their management is already substantially controlled through other legislation and regulations. The proposed Plan provisions largely reflect the direction of the regional plans and legislation and given this, the level of detail of analysis in this report is low.

5. Evaluation of Proposed Objectives

5.1 Introduction

This section of the report evaluates the proposed objectives as to whether they are the most appropriate to achieve the purpose of the Act.

5.2 Strategic Objectives

The following objectives from the Strategic Objectives chapter of the Proposed District Plan are relevant to this topic:

- **Objective: Sensational Selwyn**
SD-DI-O1 Selwyn is an attractive and pleasant place to live, work, and visit, where development:
 - a. *takes into account the character of individual communities;*
 - b. *is well-connected, safe, accessible and resilient; and*
 - c. *enhances environmental, economic, cultural and social outcomes for the benefit of the entire district.*
- **Objective: District Well-being and Prosperity**
SD-DI-O2 Selwyn's prosperous economy is supported through the efficient use of land, resources and infrastructure, while ensuring existing activities are protected from incompatible activities.
- **Objective: Natural Hazards**
SD-IR-O3 Significant risks from natural hazards are avoided, except in the case of strategic or critical infrastructure, where development may occur if; infrastructure has been suitably designed, the risks are appropriately mitigated and there is no reasonable alternative.

The proposed objectives for HSCL chapters are to achieve these Strategic Objectives.

5.3 Evaluation of Proposed Objectives

General Policy Direction Options and Recommendations
<ol style="list-style-type: none">1. Status Quo – retain existing objectives, policies, rules and assessment matters.2. Update stand-alone hazardous substances and contaminated land provisions – to remove overlaps with HSNO and the NESCS, but retain provisions in a separate specific section(s) of the District Plan.3. Integrate hazardous substances and contaminated land provisions - to remove overlaps with HSNO and the NESCS and to focus them on specific matters (such as proximity to sensitive areas and sites) that are of concern to the community. Updated provisions would be contained within the zone provisions.4. Remove all provisions relating to hazardous substances and contaminated land within the District Plan.

Option 2 is the preferred option. It is considered most likely to address the key resource management issues identified in Sections 2 and 3 above and give effect to the relevant statutory planning documents.

The key changes in approach with regard to hazardous substances include:

- The removal of thresholds for hazardous substances in Appendix 9 Table E9.2 and Appendix 15.
- Rules permitting activities which use and/or store hazardous substances.
- Rules managing identified Major Hazard Facilities.

The key changes in approach with regard to contaminated land include:

- The provisions of the NESCS are relied on for the management of contaminated land.

Objective Most Appropriate Way to Achieve the Purpose of the RMA

Proposed Objective	Summary of Evaluation (relevance, usefulness, achievability, reasonableness)
HS-O1: The benefits associated with activities involving the use, storage, disposal, and transportation of hazardous substances are recognised while ensuring that the adverse environmental effects of Major Hazard Facilities are mitigated.	<p>The objective is considered the most appropriate way to achieve the purpose of the Act because it:</p> <ul style="list-style-type: none"> • Recognises the residual risk to people and the environment that can arise from major hazard facilities and meets the legislative requirements to ensure that these risks are managed so that they do not adversely affect human health and the environment (RMA Section 5(2)); • By having regard to the benefits of activities which may use and/or store hazardous substances, enables people and communities to provide for their social and economic well-being (RMA Section 5(2)); • Will sustain the potential of resources to meet the needs of future generations and seeks to safeguard the life-supporting capacity of air, water, soil and ecosystems, by addressing the risk of hazardous substances on the environment (RMA Section 5(2)(a) and (b)); • Reflects recent amendments to RMA with respect to Council's responsibilities to control effects under the RMA that are not dealt with by controls already imposed by other legislation and/or higher level documents; • Aligns with the Strategic Direction Objectives and does not duplicate these (in particular, natural hazards); <p><u>Usefulness:</u> By focusing on major hazard facilities, this objective acknowledges that a best practice approach should be applied, decision makers need to consider the appropriate locations, and clearly identifies the Council's role in management of effects and decision making.</p>

	<p><u>Reasonableness:</u> Will not result in unjustifiably high costs on the community as seeks to remove duplication with other legislation.</p> <p><u>Achievability:</u> Seeks outcomes within the scope of Council's responsibilities and can be realistically achieved through regulations at a district level while relying on a best practice approach by other more specific and/or higher level regulations/legislation. The objective is consistent with identified tangata whenua outcomes which seek to protect areas sensitive for cultural reasons from adverse effects associated with the use, storage and disposal of hazardous substances.</p>
<p>CS-01: Risks from the subdivision, development and use of contaminated land are managed to protect human health and the environment, and to enable use of that land.</p>	<p>The objective is considered the most appropriate way to achieve the purpose of the Act because it:</p> <ul style="list-style-type: none"> • Manages the use and development of land that is contaminated so that people and communities' health and safety is maintained. The objective at the same time allows for the use and development of land which enables people and communities to provide for their economic, social and cultural well-being (RMA Section 5(2)); • Will sustain the potential of resources to meet the needs of future generations and seeks to safeguard the life-supporting capacity of air, water, soil and ecosystems, by addressing the risk of contaminated land on the environment (RMA Section 5(2)(a) and (b)); • Aligns with the Strategic Direction Objectives and does not duplicate these (in particular, natural hazards); <p><u>Usefulness:</u> The objective is not inconsistent with the provisions of the Canterbury Land and Water Regional Plan and closely aligns with the steps for assessment of activities under the NESCS. Providing this objective also assists Council to process consent applications under the NESCS.</p> <p><u>Reasonableness:</u> Will not result in unjustifiably high costs on the community as seeks to provide a framework for considering consent applications, which is more efficient than an absence of provisions.</p> <p><u>Achievability:</u> Seeks outcomes within the scope of Council responsibilities and can be realistically achieved through</p>

	regulations at a district level while relying on a best practice approach by other more specific and/or higher level regulations/legislation. The objective is consistent with identified tangata whenua outcomes which seek to protect the environment from adverse effects that may arise from contaminated land.
Status Quo	Summary of Evaluation
<p>Hazardous Substances</p> <p>Objectives are located in both the Township and Rural Volume of the Operative SDP. The two objectives below are contained (repeated) in both the Township and Rural Volume:</p> <p>Objectives B3.2.1</p> <p>To ensure that adequate measures are taken to avoid, remedy or mitigate any adverse effects to human health, to the amenity of townships, the rural environment and to the natural environment arising from the manufacture, storage, transport on waterbodies and disposal of hazardous substances.</p> <p>Objective B3.2.2</p> <p>To ensure that adequate measures are taken during the manufacture, storage and disposal of hazardous substances to avoid, remedy or mitigate any adverse effects to the health of livestock and other farm animals, or domestic animals, and of flora and fauna, and to the life-sustaining capacity and amenity values of waterbodies, land and soil resources.</p>	<p>These objectives are not preferred as the most appropriate way to achieve the purpose of the Act because they:</p> <ul style="list-style-type: none"> • Are unclear as to the jurisdiction of the district plan provisions in relation to the requirements of the HSNO Act; • Would continue and potentially exacerbate issues identified in section 2 and 3 of this evaluation; • There would be a significant lost opportunity to improve the efficiency and effectiveness of management of hazardous substances and contaminated land in the District if the existing provisions were rolled over. <p><u>Usefulness:</u> Definitions are inconsistent with HSNO, which causes unnecessary complications. Does not clearly guide decision makers as to the role of Council in relation to managing effects. Inclusion of provisions across different volumes of the plan (i.e. are duplicated in the plan and not in one central area) creates duplication and unnecessary complication.</p> <p><u>Reasonableness:</u> Will result in costs for those resource users who have to maintain compliance with HSNO requirements and also seek resource consents from the Council, particularly if those consents then have different requirements to those contained in HSNO.</p> <p><u>Achievability:</u> Less effective in achieving outcomes within the scope of Council's responsibilities.</p>
Principal Alternative	Summary of Evaluation
An alternate approach would be to include provisions in the land use zone provisions rather than in a standalone chapter.	This approach is not preferred as the most appropriate way to achieve the purpose of the Act because they are inconsistent with the National Planning Standards.

	<p><u>Usefulness:</u> Does not overlap or duplicate other national legislation. By focusing on major hazard facilities, this approach acknowledges that a best practice approach should be applied, decision makers need to consider the appropriate locations, and clearly identifies the Council's role in management of effects and decision making.</p> <p><u>Reasonableness:</u> Will not result in unjustifiably high costs on the community as seeks to remove duplication with other legislation.</p> <p><u>Achievability:</u> Seeks outcomes within the scope of Council's responsibilities and can be realistically achieved through regulations at a district level while relying on a best practice approach by other more specific and/or higher level regulations/legislation. The objective is consistent with identified tangata whenua outcomes which seek to protect areas sensitive for cultural reasons from adverse effects associated with the use, storage and disposal of hazardous substances.</p>
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5.4 Summary of Evaluation

A rollover of the current provisions, maintaining the status quo, would continue the issues identified in this report. Also in keeping the status quo, the District Plan provisions will not reflect more recent legislation and statutory documents.

The proposed objectives would address the inefficiency of the current framework, while allowing the Council to develop targeted District Plan provisions to address the residual risks associated with Major Hazard Facilities, as well as the issues identified in Section 2 and 3 of this report and are the most appropriate way to achieve the purpose of the Act.

6. Evaluation of Proposed Policies, Rules and Methods

6.1 Introduction

Section 32(1)(b) requires an evaluation of whether the provisions are the most appropriate way to achieve the objectives by identifying other reasonably practicable options, assessing the efficiency and effectiveness of the provisions in achieving the objectives, and summarising the reasons for deciding on the provisions.

The assessment must identify and assess the benefits and costs of environmental, economic, social and cultural effects that are anticipated from the implementation of the provisions, including opportunities for economic growth and employment. The assessment must, if practicable, quantify the benefits and costs and assess the risk of acting or not acting if there is uncertain or insufficient information available about the subject matter.

The proposed provisions relevant to the HSCL Chapter have been assessed in accordance with the following issues:

Hazardous Substances Issue 1: Managing Residual Risks from the use, storage or disposal of hazardous substances

Issue 1A – Cumulative effects of low probability and high impact facilities located near each other

Issue 1B – Potential effect of low probability and high impact facilities on sensitive activities and/or sensitive natural environments

Issue 1C – Risk from low probability and high impact facilities in natural hazard events that could affect the sites, and residual risks to public safety.

Contaminated Land Issue 2: There is an element of risk to the environment associated with the use and development of any potentially contaminated land in the District.

Provisions have been bundled where they are expected to work together to achieve the objective(s). For efficiency, this evaluation focuses on the approach and the policies and rules which implement that approach as a package, rather than a detailed analysis of every provision. How this section is approached in terms of level of detail depends on what extent the options are departing from the Operative District Plan and the significance of the alternative options.

6.2 Quantification of benefits and costs

Section 32(2)(b) requires that if practicable the benefits and costs of a proposal are quantified.

Given the assessment of the scale and significance of the proposed changes in Section 4 above, it is considered that quantifying costs and benefits would add significant time and cost to the s32 evaluation processes, therefore exact quantification of the benefits and costs in this report was not considered necessary, beneficial or practicable. Rather, this report identifies where there may be additional cost(s).

6.3 Policies and rules relating to Issue 1.

Provisions (Policy, Rule, Method) Most Appropriate Way to Achieve the Objectives	
<p>Objective: HS-O1: The benefits associated with activities involving the use, storage, disposal, and transportation of hazardous substances are recognised while ensuring that the adverse environmental effects of Major Hazard Facilities are mitigated.</p> <p>Summary of the proposed policies, rules, definitions and assessment matters that give effect to the objective relevant to these issues:</p> <ul style="list-style-type: none"> HAZS-P1 Enable activities involving the use, storage, disposal, and transportation of hazardous substances, except that a new major hazard facilities should demonstrate, through a quantitative risk assessment, the extent of the area which has the potential to cause an unacceptable level of risk. HAZS-P2 Require a new or expanding major hazard facility to be appropriately located so as to: <ol style="list-style-type: none"> mitigate potential cumulative effects of locating within close proximity of another major hazard facility; protect the health and safety of the community by internalising effects through site layout and design; and avoid identified sites of significance to Maori, natural hazards, and waterbody setbacks HAZS-P3 Manage the location of sensitive activities within an area identified through a quantitative risk assessment of a major hazard facility Rules permitting sites which use or store hazardous substances. Rules managing major hazard facilities through discretionary activity. Definitions for 'Major Hazard Facility', and 'Hazardous Substance'. <p>Appendix 1 sets out the linkages between all provisions for the HSCL chapters.</p>	
Efficiency and Effectiveness	
Benefits	Costs
<p>Environmental:</p> <p>There is less chance of adverse effects on the environment because in instances where activities and the use and/or storage of hazardous substances, outside of Major Hazard Facilities, are undertaken, they are covered by HSNO and HSW Acts.</p> <p>There is less chance of adverse effects (including reverse sensitivity provisions), as Major Hazard Facilities are located away from sensitive activities, which are not provided for in other regulatory tools, and can be regulated in the District Plan provisions.</p>	<p>Environmental:</p> <p>There are no anticipated environmental costs as a result of this approach.</p>

<p>HSNO regulations are intended to prevent the hazardous outcomes of loss of containment of hazardous substances under foreseeable circumstances, including natural hazard events. HSNO compliance alone cannot account for all circumstances contributing to the risks posed by hazardous substances. Therefore, provisions will manage and where possible avoid situations where the location and activity using and/or storing hazardous substances may be compromised due to natural hazards, which will reduce and/or avoid risk to the environment.</p>	
<p>Economic:</p> <p>There will be reduced administrative complications and unnecessary costs to applicants as occurring from the current duplication for all facilities other than Major Hazard Facilities.</p> <p>By minimising conflict and/or reverse sensitivity effects, this should avoid the situation where Major Hazard Facilities are provided for in particular zones.</p> <p>Incompatible activities (which may cause reverse sensitivity effects) in relation to sites which use and/or store hazardous substances are managed through the general zone framework.</p>	<p>Economic:</p> <p>Major Hazard Facilities will still require resource consent, but overall this will reduce from the status quo.</p>
<p>Social:</p> <p>It will simplify regulation of hazardous substances, increase transparency and be more user friendly for staff and applicants.</p> <p>The regulation of matters not sufficiently provided for in the HSNO Act will ensure the risks to human health from hazardous substances is avoided or minimised. In doing so this will improve the well-being and health and safety of communities.</p>	<p>Social:</p> <p>There are no anticipated social costs as a result of this approach.</p>
<p>Cultural:</p> <p>There is less chance of adverse effects on the environment because Major Hazard Facilities</p>	<p>Cultural:</p> <p>There are no anticipated cultural costs as a result of this approach.</p>

require the minimisation of potential residual risks and this can be considered by the decision maker, which is not provided for in other regulatory tools but can be regulated in the District Plan provisions. In doing so this will also support people's cultural well-being and relationship with the environment.	
Summary of Efficiency Assessment	
This approach is highly efficient at minimising the risks of hazardous substances to human health and the environment as it is only including provisions in the District Plan which are not contained in the other regulatory instruments. It is efficient in avoiding duplication of processes, while still ensuring that the potential impact of Major Hazard Facilities that are not managed through other instruments are considered through a resource consent process, where appropriate. In addition, this approach is efficient in ensuring that hazardous substance management is co-ordinated with other relevant agencies i.e. reflects Council's role and jurisdiction in relation to the Selwyn District. This is particularly with regard to proximity to waterbodies, by removing provision in the current district plan requiring consent for storage of hazardous substances within 20m of a waterbody as an identical restriction is contained in the Canterbury Land and Water Regional Plan.	
Effectiveness Assessment	
The proposed provisions are considered to be the most effective means of achieving the objective as together they will:	
<ul style="list-style-type: none"> • enable the Council to fulfil its statutory obligations, including duties imposed on the Council by s31 of the RMA and gives effect to provisions in chapter 18 of the CRPS. • protect the health and safety of people and communities from the residual risk of major hazard facilities. • reduce the probability of monetary costs to the community and ratepayers in the case of a hazardous substance incident that might otherwise have been an issue due to location of a facility in close proximity to a sensitive activity. • enable the Council to effectively administer its District Plan in a clear and consistent manner. 	
Options less or not as appropriate to achieve the objective(s)	
Option 1: Status quo This option involves making no changes to the District Plan, therefore retaining the existing objectives, policies and methods. In keeping the status quo, the District Plan provisions will not reflect more recent legislation or statutory documents.	Appropriateness The current provisions are not considered the most appropriate way in which to achieve the objective because they would continue the issues identified in this report, and therefore be ineffective. The status quo has resulted in duplication of consenting processes and unnecessary complication including time and costs to applicants.
Does the objective, rule and policy impose a greater or lesser prohibition or restriction on an activity which a National Environmental Standard applies?	
N/A	

Risk of acting or not acting
The risk of not acting is that hazardous facilities establish and operate in a manner which may result in residual risk to people, property and the environment.

6.4 Policies and rules relating to Issue 2.

Provisions (Policy, Rule, Method) Most Appropriate Way to Achieve the Objectives	
<p>Relevant objective(s):</p> <p>CS-O1: Risks from the subdivision, development and use of contaminated land are managed to protect human health and the environment, and to enable use of that land.</p> <p>Summary of the proposed policies, rules, definitions and assessment matters that give effect to the objective(s) relevant to these issues:</p> <ul style="list-style-type: none"> • CS-P1: Require any proposal for subdivision, development or use of contaminated land or potentially contaminated land to apply a best practice approach to investigate the risks, and either remediate the contamination or manage activities on contaminated land to protect people and the environment. • CS-P2: Use and development of remediated contaminated land does not damage or destroy any containment works, unless comparable or better containment is provided. • No rules. Any proposal to subdivide, use or develop contaminated or potentially contaminated land is managed by the requirements of the Resource Management (National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health) Regulations 2011. • Where contamination is confirmed, and this data becomes known to Council, it will be included on the Land Information Memorandums (LIM). • Definitions for 'contaminated land', and 'potentially contaminated land'. <p>Appendix 1 sets out the linkages between all provisions for the HSCL chapters.</p>	
Efficiency and Effectiveness	
Benefits	Costs
<p>Environmental:</p> <p>It will simplify regulation of the management of contaminated land, better enabling the risks to the environment from contaminated land to be appropriately managed.</p>	<p>Environmental:</p> <p>There are no anticipated environmental costs as a result of this approach.</p>
<p>Economic:</p> <p>There will be no administrative complications and unnecessary costs to applicants from the current duplication.</p>	<p>Economic:</p> <p>Activities will still require resource consent, but the duplication and process will reduce from the status quo.</p>
<p>Social:</p> <p>It will simplify regulation of the management of contaminated land, increase transparency and be more user friendly for staff and</p>	<p>Social:</p> <p>There are no anticipated social costs as a result of this approach.</p>

applicants and better assist in guiding decision-making on contaminated land.	
<p>Cultural:</p> <p>Is aligned with the direction of Ngāi Tahu in which supports full and open information sharing (through data included on LIMs).</p>	<p>Cultural:</p> <p>There are no anticipated cultural costs as a result of this approach.</p>
Summary of Efficiency Assessment	
<p>The approach to refer to the NESCS rather than repeating or paraphrasing the provisions will be efficient in achieving the objective as it will likely avoid confusion and costs to applicants. The note will direct applicants to the NESCS which implements a consistent nation-wide approach to managing risks from contaminated land. Providing information about what the NESCS is and alerting plan users to its requirements is considered the most efficient approach to address the management of contaminated land as it simplifies the application and evaluation process for applicants and staff while ensuring that the risk to people and the environment from contaminated land is appropriately managed.</p>	
Effectiveness Assessment	
<p>The proposed provisions are considered to be the most effective means of achieving the objective as together they will:</p> <ul style="list-style-type: none"> • enable the Council to fulfil its statutory obligations, including duties imposed on the Council by s31(b)(iia) of the RMA and gives effect to provisions in chapter 17 of the CRPS. • provide an assessment framework for Council to use in processing consent applications under the NESCS. • ensure that Plan users are aware of the NESCS and its requirements, through the reference to the NESCS. • enable the Council to effectively administer its District Plan in a clear and consistent manner. 	
Options less or not as appropriate to achieve the objective(s)	
<p>Option 1: Status quo</p> <p>This option involves making no changes to the District Plan, therefore retaining the existing objectives, policies and methods. In keeping the status quo, the District Plan provisions will not reflect more recent legislation or statutory documents.</p>	<p>Appropriateness</p> <p>The current provisions are not considered the most appropriate way in which to achieve the objective because they would continue the issues identified in this report, and therefore be ineffective.</p> <p>New legislation and other statutory planning documents have been introduced since the District Plan was made operative (the status quo). This has resulted in duplication of consenting processes and unnecessary complication including time and costs to applicants.</p>
Does the objective, rule and policy impose a greater or lesser prohibition or restriction on an activity which a National Environmental Standard applies?	
<p>No rules are proposed, rather the NESCS is referred to in the District Plan thereby avoiding duplication or any lesser or greater restrictions than otherwise required by the NESCS. Any proposal to subdivide, use or develop contaminated or potentially contaminated land is managed by the requirements of the Resource Management (National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health) Regulations 2011.</p>	

Risk of acting or not acting
The risk of not acting is that the Council will not fulfil its statutory responsibility and give effect to the CRPS. To a lesser extent, there is a risk of inefficiencies created by rules or provisions that are duplicated from the NESCS and provisions exceeding or conflicting with the NESCS if changes are made to the NESCS in the future.

6.5 Summary of Proposed Definitions.

To help clarify the intent of the provisions and align with the National Planning Standards the following definitions have been introduced for:

- Contaminated Land, as defined in the National Planning Standards, which refers to Section 2 of the RMA;
- Hazardous Substance, as defined in the National Planning Standards, which refers to Section 2 of the RMA;
- Major Hazard Facility, as defined in the Health and Safety at Work (Major Hazard Facilities) Regulations 2016, which means a facility that WorkSafe has designated as a lower tier major hazard facility or an upper tier major hazard facility under regulation 19 or 20;
- Potentially Contaminated Land, which is defined as ‘that part of a site where:
 - a. an activity or industry described in Schedule 3 of the Canterbury Land and Water Regional Plan that has or is likely to be undertaken or is currently being undertaken; and
 - b. where no detailed site investigation has been completed and reported, which shows that any contaminants within or on the site are at, or below, background concentrations’;
- Residual Risk, which is defined as ‘any risk of an adverse effect that remains after other industry controls and legislation, such as the Hazardous Substances and New Organisms Act 1996 and regional planning instruments, have been complied with’;

Generic District Plan-wide definitions such as Building, Dust, Effect, Environment, Land, Natural Hazard, Reverse Sensitivity, Sensitive Activity, Site, Structure, and Subdivision are also applicable.

7. Conclusion

This evaluation has been undertaken in accordance with Section 32 of the Act in order to identify the need, benefits and costs arising from the District Plan Review relating to the HSCL chapters provisions and the appropriateness of the current and proposed methods and rules having regard to their effectiveness and efficiency relative to other means in achieving the purpose of the Act.

With regard to hazardous substances, this review has found that the most appropriate way to manage hazardous substances is to regulate only those matters that are not covered by other planning documents or legislation, in order to avoid duplication. With regard to contaminated land, the RMA requires that the District Plan rules must be in accordance (not duplicating or conflicting) with the NESCS and must give effect to the CRPS. Therefore, the provisions for managing contaminated land have been developed to achieve this.

The hazardous substances provisions provide for the management of residual risk and potential effects of Major Hazard Facilities and acknowledge that a best practice approach should be applied, clearly identifying the Council's role in management of effects and decision making. The provisions also reflect recent amendments to the RMA with respect to Council's responsibilities to control effects under the RMA that are not dealt with by controls already imposed by other legislation and/or higher level documents. The contaminated land provisions provide a clear policy framework and cross-reference to the NESCS enabling Council to fulfil its statutory obligations, including duties imposed on the Council by s31(b)(iia) of the RMA.

After undertaking an evaluation as required by Section 32 of the RMA, the proposed Objectives are considered the most appropriate way to achieve the Purpose of the RMA (Section 5) for addressing the management of hazardous substances and contaminated land.

It is considered that the recommended policies and methods outlined above are the most appropriate way for achieving the objectives, having considered other reasonably practicable options and assessing the efficiency and effectiveness of the provisions in achieving the objectives.

Appendix 1: Provision Cascade

Issue	Strategic Objective	Objectives	Policies	Rules	Assessment Criteria	Planning Maps
HAZARDOUS SUBSTANCES						
<p>Hazardous Substances Issue 1: Managing Residual Risks from the use, storage or disposal of hazardous substances</p> <p>Issue 1A – Cumulative effects of low probability and high impact facilities located near each other</p> <p>Issue 1B – Potential effect of low probability and high impact facilities on sensitive activities and/or sensitive natural environments</p> <p>Issue 1C – Risk from low probability and high impact facilities in natural hazard events that could affect the sites, and residual risks to public safety.</p>	<p>Objective: Sensational Selwyn SD-DI-O1 Selwyn is an attractive and pleasant place to live, work, and visit, where development:</p> <ol style="list-style-type: none"> takes into account the character of individual communities; is well-connected, safe, accessible and resilient; and enhances environmental, economic, cultural and social outcomes for the benefit of the entire district. <p>Objective: District Well-being and Prosperity SD-DI-O2 Selwyn’s prosperous economy is supported through the efficient use of land, resources and infrastructure, while ensuring existing activities are protected from incompatible activities.</p> <p>Objective: Natural Hazards SD-IR-O3 Significant risks from natural hazards are avoided, except in the case of strategic or critical infrastructure, where development may occur if; infrastructure has been suitably designed, the risks are appropriately mitigated and there is no reasonable alternative.</p>	<p>HAZS-O1 The benefits associated with activities involving the use, storage, disposal, and transportation of hazardous substances are recognised while ensuring that the adverse environmental effects of Major Hazard Facilities are mitigated.</p>	<p>HAZS-P1 Enable activities involving the use, storage, disposal, and transportation of hazardous substances, except that a new major hazard facilities should demonstrate, through a quantitative risk assessment, the extent of the area which has the potential to cause an unacceptable level of risk.</p> <p>HAZS-P2 Require a new or expanding major hazard facility to be appropriately located so as to:</p> <ol style="list-style-type: none"> mitigate potential cumulative effects of locating within close proximity of another major hazard facility; protect the health and safety of the community by internalising effects through site layout and design; and avoid identified sites of significance to Maori, natural hazards, and waterbody setbacks <p>HAZS-P3 Manage the location of sensitive activities within an area identified through a quantitative risk assessment of a major hazard facility</p> <p>Plus, change to Fault avoidance and Greendale Fault overlay policy to incorporate Major Hazard Facilities</p>	<p>Rules permitting sites which use and/or store hazardous substances.</p> <p>Rules managing the location of Major Hazard Facilities, including provisions within Natural Hazards</p> <p>Rules managing the location of sensitive activities near established Major Hazard Facilities</p>	<p>n/a</p> <p>Activities are either permitted with no requirements or Discretionary or Non-complying</p>	<p>n/a</p>
CONTAMINATED LAND						
<p>Contaminated Land Issue 2: There is an element of risk to the environment associated with the use and development of any potentially contaminated land in the District.</p>	<p>Objective: Sensational Selwyn SD-DI-O1 Selwyn is an attractive and pleasant place to live, work, and visit, where development:</p> <ol style="list-style-type: none"> takes into account the character of individual communities; is well-connected, safe, accessible and resilient; and 	<p>CS-O1: Risks from the subdivision, development and use of contaminated land are managed to protect human health and the environment, and to enable use of that land.</p>	<p>CL-P1 Require any proposal for subdivision, development or use of contaminated land or potentially contaminated land to apply a best practice approach to investigate the risks, and either remediate the contamination or manage activities on contaminated land to protect people and the environment.</p>	<p>No rules.</p> <p>Any proposal to subdivide, use or develop contaminated or potentially contaminated land is managed by the requirements of the Resource Management (National Environmental Standard for Assessing and Managing</p>	<p>n/a</p>	<p>n/a</p>

	<p>c. enhances environmental, economic, cultural and social outcomes for the benefit of the entire district.</p> <p>Objective: District Well-being and Prosperity SD-DI-O2 Selwyn’s prosperous economy is supported through the efficient use of land, resources and infrastructure, while ensuring existing activities are protected from incompatible activities.</p> <p>Objective: Natural Hazards SD-IR-O3 Significant risks from natural hazards are avoided, except in the case of strategic or critical infrastructure, where development may occur if; infrastructure has been suitably designed, the risks are appropriately mitigated and there is no reasonable alternative.</p>		<p>CL-P2 Use and development of remediated contaminated land does not damage or destroy any containment works, unless comparable or better containment is provided.</p>	<p>Contaminants in Soil to Protect Human Health) Regulations 2011.</p> <p>Where contamination is confirmed, and this data becomes known to Council, it will be included on Land Information Memorandums (LIM).</p>		
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Appendix 2: Proposed Plan Provisions

Definitions

Term to be defined	Meaning
Contaminated Land	<p><i>has the same meaning as in section 2 of the RMA</i></p> <p>means land that has a hazardous substance in or on it that—</p> <ol style="list-style-type: none">has significant adverse effects on the environment; oris reasonably likely to have significant adverse effects on the environment.
Environment	<p><i>has the same meaning as in section 2 of the RMA</i></p> <p>includes—</p> <ol style="list-style-type: none">ecosystems and their constituent parts, including people and communities; andall natural and physical resources; andamenity values; andthe social, economic, aesthetic, and cultural conditions which affect the matters stated in paragraphs (a) to (c) or which are affected by those matters
Hazardous Substance	<p><i>has the same meaning as in section 2 of the RMA</i></p> <p>includes, but is not limited to, any substance defined in section 2 of the Hazardous Substances and New Organisms Act 1996 as a hazardous substance (as set out below)</p> <p>hazardous substance means, unless expressly provided otherwise by regulations or an EPA notice, any substance—</p> <ol style="list-style-type: none">with 1 or more of the following intrinsic properties:<ol style="list-style-type: none">explosiveness:flammability:

	<ul style="list-style-type: none"> iii. a capacity to oxidise: iv. corrosiveness: v. toxicity (including chronic toxicity): vi. ecotoxicity, with or without bioaccumulation; or <p>b. which on contact with air or water (other than air or water where the temperature or pressure has been artificially increased or decreased) generates a substance with any 1 or more of the properties specified in paragraph (a).</p>
Major Hazard Facility	<p><i>has the same meaning as the Health and Safety at Work (Major Hazard Facilities) Regulations 2016</i></p> <p>means a facility that WorkSafe has designated as a lower tier major hazard facility or an upper tier major hazard facility under regulation 19 or 20</p>
Natural Hazard	<p><i>has the same meaning as in section 2 of the RMA</i></p> <p>means any atmospheric or earth or water related occurrence (including earthquake, tsunami, erosion, volcanic and geothermal activity, landslip, subsidence, sedimentation, wind, drought, fire, or flooding) the action of which adversely affects or may adversely affect human life, property, or other aspects of the environment.</p>
Potentially Contaminated Land	<p>means that part of a site where:</p> <ul style="list-style-type: none"> a. an activity or industry described in Schedule 3 of the Canterbury Land and Water Regional Plan that has or likely to be undertaken or is currently being undertaken; and b. where no detailed site investigation has been completed and reported, which shows that any contaminants within or on the site are at, or below, background concentrations.
Residual Risk	<p>in relation to HASZ-Hazardous Substances Chapter, means any risk of an adverse effect that remains after other industry controls and legislation, such as the Hazardous Substances and New Organisms Act 1996 and regional planning instruments, have been complied with.</p>
Reverse Sensitivity	<p>The potential for an approved (whether by consent or designation), existing or permitted activity to be compromised, constrained, or curtailed by the more recent establishment or alteration of another activity which</p>

may be sensitive to the actual, potential or perceived adverse environmental effects generated by an approved, existing or permitted activity.

Subdivision

has the same meaning as “subdivision of land” in section 218 of the RMA

means—

- a. the division of an allotment—
 - i. by an application to the Registrar-General of Land for the issue of a separate certificate of title for any part of the allotment; or
 - ii. by the disposition by way of sale or offer for sale of the fee simple to part of the allotment; or
 - iii. by a lease of part of the allotment which, including renewals, is or could be for a term of more than 35 years; or
 - iv. by the grant of a company lease or cross lease in respect of any part of the allotment; or
 - v. by the deposit of a unit plan, or an application to the Registrar-General of Land for the issue of a separate certificate of title for any part of a unit on a unit plan; or
 - b. an application to the Registrar-General of Land for the issue of a separate certificate of title in circumstances where the issue of that certificate of title is prohibited by section 226.
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Hazardous Substances

Overview

Primarily, hazardous substances are controlled by the [Hazardous Substances and New Organisms Act 1996](#) (HSNO Act). The purpose of the HSNO Act is to “protect the environment, and the health and safety of people and communities, by preventing or managing the adverse effects of hazardous substances and new organisms”. The HSNO Act is largely administered by the Ministry for the Environment and implemented by the Environmental Protection Authority (EPA). However, from December 2017, the rules around managing hazardous substances that affect human health and safety in the workplace have been transferred from the HSNO regime to the [Health and Safety at Work Act](#) (HSW Act), with these rules given effect within the [Health and Safety at Work \(Hazardous Substances\) Regulations 2017](#) and administered by WorkSafe New Zealand.

The HSNO Act (and now supplemented by the HSW Act) provides the general framework for controlling hazardous substances during their entire life-cycle. Requirements apply from manufacturing or importing a substance, through its use, to disposal.

To avoid duplication, the District Plan seeks only to control matters that are not covered by other more specific legislation (such as those outlined above) or regulated by the Canterbury Regional Council. The District Plan is looking at effects of a low probability but a high impact, and rely on the identification of these facilities through the Major Hazard Facility threshold, outlined in [Health and Safety at Work \(Major Hazard Facilities\) Regulations 2016](#).

HAZS-Objectives and Policies

Objectives

HAZS-O1

The benefits associated with activities involving the use, storage, disposal, and transportation of hazardous substances are recognised while ensuring that the adverse environmental effects of Major Hazard Facilities are mitigated.

Policies

HAZS-P1	Enable activities involving the use, storage, disposal, and transportation of hazardous substances while managing the residual risk to people, property, and the environment to acceptable levels.
HAZS-P2	Major hazard facilities should demonstrate, through a quantitative risk assessment, the extent of the area which has the potential to cause an unacceptable level of risk.
HAZS-P3	Require a new or expanding major hazard facility to be appropriately located so as to: <ol style="list-style-type: none"> 1. mitigate potential cumulative effects of locating within close proximity of another major hazard facility; 2. protect the health and safety of the community by internalising effects through site layout and design; and 3. avoid identified sites of significance to Maori, natural hazards, and waterbody setbacks
HAZS-P4	Manage the location of sensitive activities within an area identified through a quantitative risk assessment of a major hazard facility

Note for Plan Users: There may be a number of Plan provisions that apply to an activity, building or structure and site. In some cases, consent may be required under rules in this Chapter as well as rules in other District Wide or Area Specific Chapters in the Plan. In those cases, unless otherwise specifically stated in a rule, consent is required under each of those identified rules. Details of the steps Plan users should take to determine the status of an activity is provided in the How the Plan Works section.

HASZ-Rule List

HASZ-R1	Use and/or storage of Hazardous substances, excluding Major Hazard Facilities
HASZ-R2	Major Hazard Facility

HASZ-R3	Sensitive Activity
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HASZ-Rules

HAZS-R1	Use, storage and/or disposal of Hazardous substances, excluding Major Hazard Facilities	
All Zones	Activity status: PER Use and/or storage of <u>Hazardous substances</u> , excluding a <u>major hazard facility</u>	Activity Status when compliance with not achieved: n/a
HAZS-R2	Major Hazard Facility	
General Industrial Zone	Activity status: DIS HAZS-R2.1. <u>Major Hazard Facility</u>	Activity Status when compliance with not achieved: N/A
All other Zones	Activity status: NC HAZS-R2.2. <u>Major Hazard Facility</u>	Activity Status when compliance with not achieved: N/A
HAZS-R3	Sensitive Activity	
All Zones	Activity status: DIS HAZS-R2.1. <u>Sensitive Activity</u> Where:	Activity Status when compliance with not achieved: N/A

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- a. it is located in an area identified in a quantitative risk assessment of an existing Major Hazard Facility.
-

Other Chapters

Natural Hazards

NH-Objectives and Policies

Policies

NH-P10

Within the Greendale Fault avoidance overlay, avoid the development or use of land for buildings or structures:

- a. of Building Importance Level 4; or
- b. of Building Importance Level 5; or
- c. **for any major hazard facility**

unless the adverse effects of fault rupture can be mitigated so as to ensure that there is no greater risk to human health and safety during and after an earthquake.

NH-P11

Within any fault awareness overlay, restrict the following development or use of land for buildings or structures:

- a. Building Importance Level 3; or
- b. Building Importance Level 4; or
- c. Building Importance Level 5; or
- d. **for any major hazard facility**

unless that adverse effects of fault rupture can be mitigated so as to ensure that there is no greater risk to human health and safety during and after an earthquake.

NHZ-Rules

NH-R6	Buildings and structures in geotechnical hazard areas	
Fault awareness overlay	<p>Activity status: PER</p> <p>NH-R6.1. The establishment of any building or structure that is not any of:</p> <ol style="list-style-type: none"> Building Importance Level 3 Building Importance Level 4 Building Importance Level 5 <u>A major hazard facility</u> 	<p>Activity Status when compliance with not achieved:</p> <p>NH-R6.2. When compliance with any of NH-R6.1 is not achieved: RDIS</p> <p>Matters of discretion:</p> <p>NH-R6.3. The exercise of discretion in relation to NH-R6.2 is restricted to the following matters:</p> <ol style="list-style-type: none"> NH-MAT1 Natural hazards generally <p>Notification:</p> <p>NH-R6.4. Any application arising from NH-R6.2 shall not be subject to public or limited notification and shall be processed on a non-notified basis.</p>
Greendale Fault avoidance overlay	<p>Activity status: PER</p> <p>NH-R6.5. The establishment of any building or structure that is not any of:</p> <ol style="list-style-type: none"> Building Importance Level 4; or Building Importance Level 5; or <u>A major hazard facility</u> 	<p>Activity status when compliance not achieved:</p> <p>NH-R6.6. When compliance with any of NH-R6.5 is not achieved: NC</p>

Contaminated Land

Overview

Land can become contaminated when hazardous substances are not used, stored or disposed of in a safe way. People can be exposed to contaminated land by direct contact with contaminated soil, swallowing food or water from contaminated environments and breathing vapours or contaminated dust.

Primarily, the subdivision, development and use of contaminated or potentially contaminated land is governed by the requirements of the [Resource Management \(National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health\) Regulations 2011](#) (NES). The NES contains planning controls and references the Hazardous Activities and Industries List (HAIL). The HAIL is a list of activities and industries that are considered likely to cause land contamination.

The District Plan must recognise and give effect to the NES through its objectives and policies. The District Plan seeks only to control matters that are not covered by other more specific legislation or the functions of the Canterbury Regional Council. It does not seek to duplicate the provisions of existing legislation.

Any proposal to subdivide, use or develop contaminated or potentially contaminated land is managed by the requirements of the [Resource Management \(National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health\) Regulations 2011](#).

Where contamination is confirmed, and this data becomes known to Council, it will be included on Land Information Memorandums (LIM).

CL-Objectives and Policies

Objectives

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|-------|--|
| CL-O1 | Risks from the <u>subdivision</u> , development and use of <u>contaminated land</u> are managed to protect human health and the <u>environment</u> , and to enable use of that land. |
|-------|--|
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Policies

- | | |
|-------|---|
| CL-P1 | Require any proposal for <u>subdivision</u> , development or use of <u>contaminated land</u> or <u>potentially contaminated land</u> to apply a best practice approach to investigate the risks, and either remediate the contamination or manage activities on <u>contaminated land</u> to protect people and the <u>environment</u> . |
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CL-P2

Use and development of remediated contaminated land does not damage or destroy any containment works, unless comparable or better containment is provided.

Advice Note

The status of some activities will be determined by the requirements of the Resource Management (National Environmental Standards for Assessing and Managing Contaminants in Soil to Protect Human Health) Regulations 2011. Reference should be made to the Ministry for the Environment website for a copy of these regulations, a user's guide, and documents incorporated by reference in these regulations.