



TAURANGA CITY COUNCIL

CITY PLAN SECTION 32 REPORT

Chapter 9– Hazardous Substances and Contaminated Land

TCC Ref: 2780003



Table of Contents

1.	INTRODUCTION.....	3
2.	PURPOSE OF THE CHAPTER	3
3.	RECORD OF DEVELOPMENT OF PROVISIONS	4
3.1	Background Research.....	4
3.2	Consultation Outcomes	6
3.3	Council Meetings.....	6
3.4	Relevant Legislation, Strategies and Policy	8
4.	Issues	15
4.1	Summary of Issues.....	16
4.2	Issue 1 - Risk from Hazardous Substances	16
4.2.1	Objectives.....	17
4.2.2	Policies and Methods.	18
4.2.3	Alternatives.....	21
4.3	Issue 2 - Risk from Contaminated Land	25
4.3.1	Objectives.....	26
4.3.2	Policies and Methods.	27
4.3.3	Alternatives.....	30
4.4	The Costs and Benefits of the Proposed Policies, Rules or other Methods.....	32
4.5	Monitoring Proposed Plan Provisions (EREs).....	34
5.	RECOMMENDED OBJECTIVES, POLICIES AND METHODS	37
6.	NOTIFICATION AND RECOMMENDED DECISIONS	38

1. INTRODUCTION

The Council is required under section 32 of the Resource Management Act 1991 (the RMA) to carry out an evaluation of alternatives, costs and benefits, and efficiency and effectiveness of the various components of the proposed City Plan.

Section 32 of the Act requires that the evaluation must examine:

- (a) the extent to which each objective is the most appropriate way to achieve the purpose of the Act; and
- (b) whether, having regard to their efficiency and effectiveness, the policies, rules or other methods are the most appropriate for achieving the objectives.

An evaluation must also take into account:

- (a) the benefits and costs of policies, rules, or other methods; and
- (b) the risk of acting or not acting if there is uncertain or insufficient information about the subject matter of the policies, rules or other methods.

This report fulfils the obligations of the Council under section 32 of the RMA. The following is a section 32 analysis in regard to Chapter 9 – Hazardous Substances and Contaminated Land. It should be read together with the text of the Proposed City Plan itself.

2. PURPOSE OF THE CHAPTER

Hazardous substances are considered to be those substances that may negatively impact on human health or the environment through toxicity, explosiveness and flammability. In Tauranga City many activities are involved in the storage, transportation or use of hazardous substances. Some of the substances are highly toxic and if released to the environment could seriously compromise natural and physical values, as well as creating a risk to people and communities.

Risks associated with hazardous substances are required to be addressed by the Council as section 31 of the RMA provides that the Council shall...*control the actual or potential effects of the use, development, or protection of land, including for the purpose of...the prevention or mitigation of any adverse effects of the storage, use, disposal or transportation of hazardous substances*". The District Plan currently addresses this issue through what is known as the 'Hazardous Facilities Screening Procedure' (HFSP). The HFSP is a screening tool which identifies those hazardous facilities which have a higher risk level and require further assessment in terms of mitigation measures, emergency contingency measures and risk management techniques.

Specific legislation in the Hazardous Substances and New Organisms Act (HSNO) controls certain aspects of the use of hazardous substances. The HSNO is a nationwide control over containment, packaging, identification/labelling, competency of handling, emergency procedures and disposal. The RMA is intended to perform a complimentary function, addressing site specific issues with the particular location or land use involving hazardous substance use (i.e. site design and separation from sensitive uses).

Since the preparation of the operative District Plan, the RMA has been amended (2005) to introduce an additional matter; the requirement in section 31 for the functions of the Council to include "...*the prevention or mitigation of any adverse effects of the development, subdivision, or use of contaminated land.*" The issue of contaminated land is not currently addressed within the operative District Plan.

3. RECORD OF DEVELOPMENT OF PROVISIONS

3.1 Background Research

District Plans prepared by other local authorities that include provisions relating to hazardous substances and contaminated land were reviewed. Other key stakeholders were consulted through the development of the proposed hazardous substances and contaminated land provisions including Western Bay of Plenty District Council and the Bay of Plenty Regional Council.

The following documents were the primary sources of information guiding this evaluation:

Land-use Planning Guide for Hazardous Facilities, Ministry for the Environment, February 2002 (available on the Ministry for the Environment (MfE) website (www.mfe.govt.nz))

This guide is the result of the review of the 1995 document Land Use Planning for Hazardous Facilities commonly known as the “Red Book”. The Red Book introduced planning guidelines for hazardous facilities and a new planning method, the Hazardous Facility Screening Procedure (HFSP).

Contaminated Land Management Guidelines (available on the MfE website (www.mfe.govt.nz))

The Ministry for the Environment has released a series of Contaminated Land Management Guidelines (CLMG), the main purpose of which is to introduce consistency in contaminated land assessment and management throughout the country. These five guidelines are:

- Contaminated Land Management Guidelines No. 1 - Reporting on Contaminated Sites in New Zealand (October 2003)

This guideline details the type and amount of information required in a contaminated site report. Its aim is to ensure consistency in the reporting on contaminated sites. It includes checklists for reporting requirements for contaminated sites and for the removal of petroleum underground storage tanks

- Contaminated Land Management Guidelines No. 2 - Hierarchy and Application in New Zealand of Environmental Guideline Values (updated June 2007)

This guideline has been developed to ensure the consistent selection and application of environmental guideline values. It is of use to environmental consultants and landowners undertaking contaminated site investigations, and to council staff involved in reviewing contaminated site assessment reports.

- Contaminated Land Management Guidelines No. 3 - Risk Screening System (February 2004)

This guideline describes the Risk Screening System (RSS). The system aims to provide a nationally consistent means of ranking sites that are, or are suspected of being, contaminated. The purpose of ranking a site is usually so that it may be prioritised for further investigation.

- Contaminated Land Management Guidelines No. 4: Classification and Information Management Protocols (August 2006)

The purpose of this guideline is to suggest a nationally consistent way of classifying, managing and releasing contaminated site information held on council registers or databases. Local government is encouraged to adopt the systems and classifications provided by this guideline, so that there is a nationally consistent system beneficial to all practitioners involved in contaminated land.

- Contaminated Land Management Guidelines No.5: Site Investigation and Analysis of Soils (February 2004)

This guideline provides best practice for the sampling and analysis of soils on sites where hazardous substances are present or suspected in soils in New Zealand and guidance on the principles governing the interpretation of the data obtained.

- Hazardous Activities and Industries List (HAIL)

The Ministry for the Environment also introduced the 'Contaminated Land Management Guidelines Schedule A: Hazardous Activities and Industries List (HAIL)', which is a compilation of activities and industries that are considered likely to cause land contamination as a result of hazardous substance use, storage or disposal. CLMG Schedule B provides further information on HAIL details with examples of hazardous substances associated with the industries and activities.

Review of Draft Tauranga City Plan provisions for Contaminated Soils/ Hazardous Substances, URS, 5 August 2009 (Appendix A).

A peer review of the draft Tauranga City Plan provisions for hazardous substances and contaminated land. The review focussed on the contaminated land provisions, with comments on the hazardous substances provisions provided where appropriate recognising that these provisions were recently reviewed through Plan Change 38 to the Operative District Plan.

Previous Plan Changes to the Operative District Plan Plan Change 38 –

Commissioned in 2004 in response to the recent amendments to the Resource Management Act 1991 (RMA), the Hazardous Substances and New Organisms Act 1996 (HSNO) and also the Hazardous Facilities Screening Procedure (HFSP). Plan Change 38 was notified on 13 August 2005, and made operative on 28 August 2006.

The five main issues identified, which led to Plan Change 38, were:

1. Under Section 31(1)(b) RMA, territorial authorities were to address storage, use, disposal and transportation of hazardous substances, with an integrated linkage for the Issue, Objective, Policies, Methods and Anticipated Environmental Outcomes.
2. The Issue Statement referred to environmental risk, effects on natural and physical values and contamination of the environment. The risk to people and communities also needed to be identified.
3. The latest changes under the HSNO Act were not adequately reflected in the district plan provisions.
4. Permitted Activities needed to be clearer.
5. The recently updated provisions for the HFSP guidelines from MfE needed to be used.

Plan Change 38 addressed each of these issues so as to achieve compliance with legislative changes and adopt the latest approach by the Ministry for the Environment for the HFSP Guidelines.

3.2 Consultation Outcomes

In August of 2008 general consultation of issues associated with the Hazardous Substances and Contaminated Land Chapter and options to address these issues was undertaken. The following feedback was received:

- Use current hazardous substances screening procedure.
- Revise thresholds for some hazardous substances.
- Retain existing controls in respect to 'out of zone' uses and provide better information.
- Ensure compliance with relevant Act and regulations.
- Costs of treating contaminated sites to be responsibility of land owner or developer.

The Bay of Plenty Regional Council supported the specification of requirements for the treatment of contaminated land (when and where identified as an issue through subdivision, development or land use process), supplemented with the establishment of a database of empirical evidence and/or historical land-use. The need to establish and maintain strong working relationships between the Council and the Bay of Plenty Regional Council on these matters was emphasised in its feedback.

In April of 2009 a community feedback exercise was undertaken on draft content for the City Plan. As a result of this process the following feedback was received:

- Request for a further exemption from the Hazards Facilities Screening Procedure (HFSP) and the permitted activity conditions.
- Questions concerning the land-use/ subdivision trigger for requiring consideration.
- Questions over the process of identifying, registering, and updating potentially contaminated site records.
- Request to change the name of the Chapter.

3.3 Council Meetings

Elected Members discussed the development of the Hazardous Substances and Contaminated Land Chapter on the following dates. The outcomes of each discussion are also listed.

Meeting: Strategy and Policy Committee – 28 May 2008

Issues Discussed:

- Basis of Requirements for Resource Consents Assessment
- Control over substances/activities not addressed by the HFSP
- Consideration of risks to 'out of zone' uses
- Possible means of addressing the adverse effects of the use, development and subdivision of contaminated land

Meeting Outcomes:

- Resource consent assessment - Continuation of the use of the Hazardous Facilities Screening Procedure (HFSP) as currently set out in the District Plan.

- Consider revised thresholds for some hazardous substances, where the risks of these substances require additional control from the HFSP procedure.
- 'Out of zone' uses - Retain the status quo.
- Contaminated Land - Identify specific requirements for the treatment of contaminated land where identified as an issue through the subdivision, development or land use process. A likely adjunct would be the establishment of a non District Plan related database of potentially contaminated sites, based on empirical evidence or historical land use.

Meeting: Strategy and Policy Committee – 29 October 2008

Issues Discussed:

- Whether to favour the use of the Hazardous Facilities Screening Procedure (HFSP) for the identification of consent requirements under the District Plan?
- How to manage hazardous substances, where the risks of these substances require additional control from the HFSP procedure?
- Whether to introduce specific requirements for use of hazardous substances adjacent to sensitive land uses, regardless of the zone?
- Whether to seek to identify contaminated land within the District Plan or whether to rely on instances where the onus lies with any applicant, and with the potential requirement for additional information and other requirements (remediation) at the Council's discretion?

Meeting Outcomes:

- Retain HFSP but include a quantity based consent assessment that overrides the HFSP for certain hazardous facilities in sensitive zones.
- New controls and revised thresholds for some hazardous facility activities and substances.
- Out of zone uses - Status Quo
- Contaminated Land - Identify specific requirements for the treatment of land known to be or identified to be contaminated or potentially contaminated through the subdivision, development or land-use process.

Meeting: Strategy and Policy Committee – 10 March 2009

Issues Discussed:

- Presentation of the Draft Hazardous Substances and Contaminated Land Chapter (then titled Man-made Hazards) for community feedback which was endorsed for that process.

Meeting: Strategy and Policy Committee – 30 June 2009

Issues Discussed:

- Presentation of community feedback received through the engagement process and associated issues and options to that feedback.

Meeting Outcomes:

- Rename the Chapter from 'Man-made Hazards' to 'Hazardous Substances and Contaminated Land'
- Exempt sealed or self-contained electrical equipment from the HFSP assessment but not from the Permitted Activity conditions.
- Undertake a technical review of the contaminated land provisions in response to feedback on the draft Chapter and revise the provisions in response to the review where required.

3.4 Relevant Legislation, Strategies and Policy

Resource Management Act 1991

The overall purpose of the RMA is to promote the sustainable management of natural hazards and physical resources (Section 5). Both Regional and District Councils have responsibilities under the RMA for control of the use of land, for the avoidance and mitigation of hazards.

Specific functions of territorial authorities are set out in the RMA. With respect to hazardous substances and contaminated land, these include:

Section 31(b) states that every territorial authority has as a function:

Functions of territorial authorities under this Act

- (1) *Every territorial authority shall have the following functions for the purpose of giving effect to this Act in its district:*
 - (a) *the establishment, implementation, and review of objectives, policies, and methods to achieve integrated management of the effects of the use, development, or protection of land and associated natural and physical resources of the district:*
 - (b) the control of any actual or potential effects of the use, development, or protection of land, including for the purpose of—**
 - (i) *the avoidance or mitigation of natural hazards; and*
 - (ii) the prevention or mitigation of any adverse effects of the storage, use, disposal, or transportation of hazardous substances; and**
 - (iia) the prevention or mitigation of any adverse effects of the development, subdivision, or use of contaminated land:**
 - (iii) *the maintenance of indigenous biological diversity:*
 - (c) *[Repealed]*
 - (d) *the control of the emission of noise and the mitigation of the effects of noise:*
 - (e) *the control of any actual or potential effects of activities in relation to the surface of water in rivers and lakes:*
 - (f) *any other functions specified in this Act.*

Section 73 of the RMA requires each territorial authority to prepare a District Plan. Section 72 states that the purpose of the Plan is “to assist territorial authorities to carry out their functions in order to achieve the purpose of this Act”: Section 75(2) states that a District Plan “must give effect to-

- (a) *any national policy statement; and*
- (b) *any New Zealand coastal policy statement; and*
- (c) *any regional policy statement.*

Under Section 75(4) a District Plan must not be inconsistent with:

- (a) *a regional plan for any matter specified in [section 30\(1\)](#).*

There are no national policy statements for managing hazardous substances and contaminated land, and the New Zealand Coastal Policy Statement is not relevant in this regard.

Regional documents of relevance to the management of hazardous substances and contaminated land in Tauranga include:

- The Bay of Plenty Regional Policy Statement; and

- The Bay of Plenty Regional Water and Land Plan;

Under the RMA there is an overlapping function between the Council and the Regional Council in the control of hazardous substances and contaminated land. While the Council is responsible for addressing issues of hazardous substances and contaminated land in relation to the use, development and subdivision of land, the Regional Council is charged with discharges to land, air and water. The RMA requires agreement between the Regional and Territorial authority, and for this to be addressed in the Regional Policy Statement (RPS).

Bay of Plenty Regional Policy Statement (RPS)

The Regional Policy Statement was approved by resolution on the 4 of November 1999. Change No. 1 was incorporated and made operative on the on the 26 June 2008.

Territorial authorities are required to give effect to a RPS under section 75(3) of the RMA:

- (3) *A district plan must give effect to—*
 (c) *any regional policy statement.*

The following Objectives, Policies and Methods relate to the development of the Hazardous Substances and Contaminated Land Chapter for the City Plan:

12.3 Objectives, Policies and Methods

12.3.1 Hazardous Substances

12.3.1(a) Objective

Storage, use and transportation of hazardous substances with no significant adverse effects on the environment.

12.3.1(b) Policies

12.3.1(b)(i) *To minimise the risk of adverse effects on the environment and the community associated with the storage, use and transportation of hazardous substances.*

12.3.1(b)(ii) *To promote the development of non-hazardous substitutes for hazardous substances now in use.*

12.3.1(b)(iii) *To minimise the risk of adverse effects on the environment and the community associated with the occurrence and clean-up of hazardous spills.*

12.3.1(b)(iv) *To promote the concept of cleaner production.*

12.3.1(b)(v) *To require an evaluation of those uses of hazardous substances that result in an unconstrained release of contaminants into the environment and, if necessary, the authorisation of such discharges by regional plan provisions or by resource consent.*

12.3.1(b)(vi) *To promote the use of production systems which do not produce or use hazardous substances.*

12.3.1(b)(vii) *To address the problem of existing potentially hazardous wastes and contaminated sites in the region.*

12.3.1(b)(viii) *To support the application of the polluter pays principle by agencies involved in the management and clean-up of hazardous spills.*

12.3.1(c) Methods of Implementation

Environment B-O-P and District Councils are encouraged to:

12.3.1(c)(i) *Require the preparation of contingency plans to avoid the adverse environmental effects of unintentional discharges of hazardous substances to stormwater or sewer systems.*

- 12.3.1(c)(ii) *Develop a management system for identifying hazardous substance users, and ensuring that the storage, use and transportation of hazardous substances is carried out in a manner that minimises the potential risk to the environment.*
- 12.3.1(c)(iii) *Participate, including through representation on Hazardous Substances Technical Liaison Committees, in an inter-agency co-ordinated approach to the management and clean-up of hazardous spills.*
- 12.3.1(c)(iv) *Support the identification, by agencies involved in the management and cleanup of hazardous spills, of sites along main transportation routes for the temporary storage of hazardous substances in the event of accidents or spills.*
- 12.3.1(c)(v) *Contribute to the development of a manifest system for tracking hazardous substances and hazardous waste.*
- 12.3.1(c)(vi) *Establish predetermined routes for the transport of hazardous substances.*
- 12.3.1(c)(vii) *Hold in readiness appropriate equipment needed for responding to a spill.*
- 12.3.1(c)(viii) *Adopt, when they become available, the statutory definitions of hazardous substances of the Environmental Risk Management Authority or other relevant authority.*
- 12.3.1(c)(ix) *Phase out the spraying of used oil as a dust suppressant to avoid contamination of the environment.*

Environment B-O-P will:

- 12.3.1(c)(x) *Control the discharge of contaminants from hazardous substances onto or into land, or into air or water through regional plans and the resource consent process.*
- 12.3.1(c)(xi) *Provide information to the community about the environmental effects associated with inappropriate storage and disposal of hazardous substances, and the opportunities for safe collection, storage, exchange, re-use and safe disposal of these chemicals within the region.*
- 12.3.1(c)(xii) *Work with district councils, oil refineries and oil companies to maximise the opportunities for the re-use of used oil.*
- 12.3.1(c)(xiii) *Encourage better practices by users of hazardous substances by acknowledging and publishing e 12.3.1(c)(xiv) Co-ordinate, facilitate and advise on all aspects of hazardous substances management in close consultation with district councils and other relevant agencies.*
- 12.3.1(c)(xiv) *Co-ordinate, facilitate and advise on all aspects of hazardous substances management in close consultation with district councils and other relevant agencies.*
- 12.3.1(c)(xv) *Advocate that central government urgently addresses the development of a national register and a national tracking system for highly hazardous substances.*
- 12.3.1(c)(xvi) *Take a lead role in hazardous substances and hazardous waste management and develop regional plan provisions that address the discharges of hazardous substances onto or into land, or into water or air, including, where appropriate, rules relating to the storage, use, disposal and transportation of hazardous substances; and define the respective roles of district and regional councils in managing hazardous substances.*
- 12.3.1(c)(xvii) *Work with industry groups to investigate the feasibility of, and where appropriate assist in, the development of voluntary take-back schemes where manufacturers and importers take back from users or retail vendors, at no charge, any used, spent, or otherwise unwanted quantities of hazardous substances and containers for re-use, recycling or appropriate disposal. Priority will be given to developing take-back schemes for used oil, solvents, and agricultural and horticultural chemicals.*
- 12.3.1(c)(xviii) *Collect unwanted agricultural and horticultural chemicals from the rural parts of the region and evaluate and report on that collection.*
- 12.3.1(c)(xix) *Use, in conjunction with other relevant agencies, including Occupational Safety and Health, health authorities and district councils, a combination of*

regulation, service delivery and education, to minimise the potential for the inappropriate or uncontrolled use of hazardous substances.

- 12.3.1(c)(xx) *Advocate to central government that investigations into opportunities for the reuse of industrial chemicals, oil and other hazardous substances be undertaken, and that measures be developed to overcome the barriers to re-use. Where an issue is of particular significance to the region, Environment B.O.P may undertake investigations itself, and develop regional measures.*

District Councils will:

- 12.3.1(c)(xxi) *Control in an appropriate manner and monitor discharges of hazardous substances to stormwater systems and sewers.*
- 12.3.1(c)(xxii) *Prohibit and prevent as far as practicable, discharges of hazardous substances to stormwater systems.*
- 12.3.1(c)(xxiii) *Regulate activities using or storing hazardous substances, or disposing of hazardous waste, through district plans, the land use consent process and the provisions of other legislation.*
- 12.3.1(c)(xxiv) *Consider undertaking collections of domestic hazardous waste once suitable disposal or storage arrangements are in place.*

12.3.4 **Contaminated Sites**

12.3.4(a) **Objective**

The significant adverse effects of site contamination are avoided, remedied or mitigated.

12.3.4(b) **Policies**

- 12.3.4(b)(i) *To identify any contaminated sites in the region in conjunction with representatives of the industry concerned.*
- 12.3.4(b)(ii) *To minimise the risk of any further sites within the region becoming contaminated.*
- 12.3.4(b)(iii) *To remedy existing contaminated sites according to the level of risk that they present and to ensure that significant adverse off-site effects are avoided, remedied or mitigated.*
- 12.3.4(b)(iv) *To support the use of the polluter pays principle in the clean-up of contaminated sites.*
- 12.3.4(b)(v) *To remedy or mitigate the adverse effects of existing and potentially contaminated sites.*
- 12.3.4(b)(vi) *To establish and follow protocols for managing the gathering, storage and release of information about sites where the history of use indicates that site contamination could have occurred.*

12.3.4(c) **Methods of Implementation**

Environment B.O.P and District Councils will:

- 12.3.4(c)(i) *Co-operate to systematically identify, and maintain and release appropriate information about, any site where a previous or present use is linked to an activity known to be associated with site contamination.*

Environment B.O.P will:

- 12.3.4(c)(ii) *Include in a regional plan provisions addressing the issues associated with contaminated sites.*
- 12.3.4(c)(iii) *Work closely with other relevant agencies to develop and implement methods of preventing site contamination.*
- 12.3.4(c)(iv) *Advocate that central government develop guidelines for environmental, health and safety standards for contaminated sites.*

- 12.3.4(c)(v) *Facilitate the remediation of existing contaminated sites and significant adverse effects off-site, according to the level of risk they present.*
- 12.3.4(c)(vi) *Develop, in consultation with district councils, planning controls in relation to contaminated and decontaminated sites.*
- 12.3.4(c)(vii) *Work with national agencies, industry and other regional councils to develop protocols for dealing with closed or abandoned sites, determining contamination levels and assessing risk.*
- 12.3.4(c)(viii) *Require owners of contaminated sites or potentially contaminated sites to characterise the degree of contamination, the environmental effects, and risk in accordance with the relevant protocols and guidelines.*

District Councils will:

- 12.3.4(c)(ix) *Provide information on contaminated sites and selected land uses in project and land information memoranda.*

These provisions need to be taken into account in developing any Objectives, Policies and Rules in respect to Hazardous Substances and Contaminated Land to ensure that they are not inconsistent, and give effect to, the RPS.

Bay of Plenty Regional Water and Land and Plan

Under section 75(4) of the RMA:

A district plan must not be inconsistent with—

- (a) *a water conservation order; or*
- (b) *a regional plan for any matter specified in section 30(1).*

The Bay of Plenty Regional Water and Land Plan was approved by resolution on 15 October 2008 to be made operative on 1 December 2008. The following Objectives, Policies and Methods relate to the development of a Hazardous Substances and Contaminated Land Chapter for the City Plan.

4.3 Contaminated Land

4.3.1 Issue

Issue 28 ***Discharges of contaminants, including hazardous substances, from contaminated land and the remediation of contaminated land, have the potential to cause significant adverse effects on the environment and public health.***

Para 1 *Land can become contaminated by many different uses. Potential high risk land uses may include, but are not limited to, closed landfills, municipal rubbish dumps, timber treatment sites, timber treatment waste dumps, and industrial dump sites. Some of these may produce leachate many years after the site has been closed due to the percolation of rainfall through decomposing waste of contaminated soil.*

Para 2 *Discharges of contaminants from contaminated land into surface and groundwater can occur as a result of stormwater runoff, percolation, migration of contaminants through land and discharges resulting from site remediation.*

Para 3 *Specific problems with the management of contaminated land occur where:*

- (a) *Information about the locations of contaminated land within the region is incomplete, and where locations are known, the characteristics of the land and their actual or potential adverse effects are not always known in detail.*
- (b) *The respective responsibilities of Environment Bay of Plenty, the city council, district councils and other parties for identifying, investigating and monitoring*

contaminated land, and where necessary promoting or requiring remediation, are not clearly defined.

(c) *The contaminated land is an orphan site (refer to Definition of Terms).*

4.3.2 Objective

Objective 38 *The significant adverse effects of existing contaminated land are remedied or mitigated.*

4.3.3 Policies

Policy 58 *To encourage remediation of contaminated land, where such land poses a significant risk of adverse effects to water, ecosystems, the life-supporting capacity of soil or public health.*

Policy 59 *To use nationally accepted environmental and health guidelines, standards for soil and water contamination, and standards for discharges from contaminated land, when undertaking contaminated land investigations in order to determine whether a site poses a significant risk of adverse effects.*

Policy 60 *To use processes under the Act or any other legislation to ensure that any potential adverse effects caused by remediation or disturbance of contaminated land are avoided, remedied or mitigated.*

Policy 61 *To ensure that information about contaminated land is collected, recorded and maintained consistently across the Bay of Plenty region, and in a manner consistent with national best practice.*

Policy 62 *To prioritise investigation of land that is or may be contaminated on the basis of the potential environmental and health risks they present.*

Policy 63 *To manage orphan contaminated land in accordance with national policy.*

4.3.4 Methods of Implementation

Environment Bay of Plenty will:

Education, Promotion and Provision of Information

Method 141 *Encourage:*

(a) *The community, particularly landowners and occupiers, to come forward with information about land they believe to be contaminated.*

(b) *Owners and occupiers of land registered on the contaminated land database maintained by Environment Bay of Plenty, the city council and district councils that have not been investigated, to provide information to Environment Bay of Plenty about whether the land is actually contaminated and any risks associated with the contamination. Wherever possible, landowners and occupiers should not be penalised for supplying information on contaminated land in order to promote information sharing, investigation and remediation of sites.*

Working With Other Resource Management Agencies

Method 142 *Continue to maintain a database that records information about land in the region that is or may be contaminated, and manage the database information according to clear and publicly available protocols. This is best achieved in association with the city council and district councils.*

Method 143 *Work with the city council and district councils and Government to ensure that significant adverse effects arising from orphan contaminated land are avoided, remedied or mitigated.*

Regulatory Methods

Cross-Reference Also refer to Method 54, Rules 34 and 35.

Matters Relevant to Resource Consent Applications and Processing

- Method 144 Set remediation standards for discharges on resource consent conditions for contaminated land remediation using nationally accepted environmental and health guidelines, and soil and water acceptance criteria.
- Method 145 Require resource consents for discharges from contaminated land which pose a significant risk of adverse effects to the environment or public health, and where no remediation is planned. Consent conditions will establish monitoring and reporting requirements.
- Method 146 Provide for the remediation of small scale, low risk areas of contaminated land as permitted activities. (Refer to Rule 34).
- Method 147 Use the enforcement provisions in the Act if contaminated land is causing significant adverse effects but the owner or occupier is unwilling to undertake remediation.
- Method 148 Consult with the relevant city council or district council when processing resource consents for remediation or other disturbance of contaminated land.

Monitoring and Investigation of the Environment

- Method 149 Systematically identify, in association with the city council and district councils, land in the region that may be contaminated with hazardous substances, focusing on known high risk land uses that have not already been investigated in accordance with national guidelines. Potential high risk land uses may include, but not be limited to, closed landfills, municipal rubbish dumps, timber treatment sites, timber treatment waste dumps, and industrial dump sites.
- Method 150 Work with the city council, district councils and Government to obtain, for orphan contaminated land registered on the database that has not been investigated, information about whether the land is actually contaminated and any risks associated with the contamination.
- Method 151 Rank known contaminated land (including those registered on the contaminated land database) by level of risk to human health or the environment, using the Ministry for the Environment's rapid screening assessment procedure, in order to prioritise sites for investigation and/or remediation.

Rule 34 Permitted – Active Remediation of Contaminated Land

The active remediation of contaminated land where:

- 1 The only hazardous substances present in soil at the site are motor vehicle or heating fuels or lubricants (e.g. mineral oils, petrol, diesel, kerosene and their constituents and breakdown products) and the total volume of contaminated soil at the site is less than 400 cubic metres, Or
- 2 The remediation activity constitutes immediate action to address a spill of hazardous substances at a site where no previous contamination with hazardous substances existed,

Is a permitted activity subject to the following conditions:

- (a) In the case of (1) above, the remediation activity shall occur over a period not greater than two (2) consecutive months.
- (b) In the case of (2) above, the remediation activity at the site shall cease (whether or not it has been completed) no later than two (2) months after the occurrence of the event that caused the contamination, unless a resource consent to continue the remediation has been granted during that period.
- (c) Notification shall be given to Environment Bay of Plenty, no less than one week prior to the remediation commencing or, in the case of (2) above, as soon as reasonably practical.
- (d) The occupiers of adjacent properties and any other persons who may be affected by the remediation activity or the contaminants shall be notified not

- less than one week prior to the remediation commencing or, in the case of (2) above, as soon as reasonably practical.*
- (e) *All practical measures shall be taken to avoid discharges of hazardous substances to water during and following completion of the remediation activity, and to remedy or mitigate such discharges if they do occur.*
 - (f) *Any excavated contaminated soil is disposed of to an appropriately authorised facility or site, and evidence of this provided to Environment Bay of Plenty.*
 - (g) *Within three months of completion of the remediation, a site validation report shall be prepared in accordance with ‘Guidelines for Reporting on Contaminated Sites’, Ministry for the Environment, June 200144, and a copy provided to Environment Bay of Plenty.*

Rule 35 Restricted Discretionary - Remediation or Disturbance of Contaminated Land

The:

- 1 *Discharge of contaminants to water, or to land, or to land in circumstances which may result in the contaminant (or any other contaminant emanating as a result of natural processes from that contaminant) entering water, resulting from the remediation or other disturbance of a contaminated site; Or*
- 2 *Disturbance of a contaminated site; that is not permitted by Rule 34 is a restricted discretionary activity.*

Environment Bay of Plenty restricts its discretion to the following matters:

- (a) *The remediation processes to be employed.*
- (b) *Degree and extent of off-site discharges.*
- (c) *Reporting, information and monitoring requirements.*
- (d) *The duration of the consent.*
- (e) *The administration charges under section 36 of the Act.*
- (f) *Matters to achieve Objective 38, Policies 58 and 59, and Methods 144 and 148.*

These provisions need to be taken into account in developing any Objectives, Policies and Rules in respect to Hazardous Substances and Contaminated Land to ensure that they are not inconsistent, and give effect to, the Regional Water and Land Plan.

SmartGrowth

The SmartGrowth Strategy is a sub-regional response to growth management. The Strategy has a planning horizon to 2051 and provides a context for considering decisions of the present, and how they may affect the welfare of future generations. One of the identified growth issues identified in its Hazards section is “manmade hazards such as contaminated land”.

SmartGrowth identifies that:

- 1. *Areas that are severely constrained by hazard effects are avoided.*
- 2. *Areas that are slightly or moderately constrained by hazard effects are subject to mitigation.*
- 3. *Community understanding of hazard risks is promoted.*
- 6. *Risk to property from hazards is not increased.*

These key growth issues need to be taken into account in developing any Objectives, Policies and Rules in respect to Hazardous Substances and Contaminated Land.

4. Issues

4.1 Summary of Issues

The significant resource management issues which need to be addressed in the Plan are:

- The use, storage, transportation and disposal of hazardous substances are associated with primary production, manufacturing and processing activities, as well as retail, business and domestic activities. There are risks associated with hazardous substances that could adversely affect the environment and human health. The risks are the likelihood of occurrence of an adverse effect from a hazard and the resulting consequences adversely affecting people and the environment. These hazards include explosiveness, flammability, corrosiveness, toxicity and ecotoxicity,
- Hazardous substances need to be managed in a safe manner to avoid, remedy or mitigate any adverse effects on human health and the environment caused by accidental or deliberate release of hazardous substances. Measures need to be taken to reduce the risk to the local community and environment from the location of hazardous facilities.

Particular attention should be paid to:

- How to provide for the use, storage, transportation and disposal of hazardous substances, recognising that these can be a necessary part of primary production, manufacturing, business and domestic activities.
- How to manage the risks associated with the use, storage, transportation and disposal of hazardous substances in order to avoid adverse effects on the environment.

There are a number of sites in the City which have become contaminated to varying degrees through discharge or spillage of hazardous substances. Such land presents a risk not only to the natural environment in terms of contamination to land, and water bodies, but also to the health and safety of occupiers on the site and on adjoining properties. These risks need to be actively controlled.

4.2 Issue 1 - Risk from Hazardous Substances

The storage, use, disposal and transportation of hazardous substances present a risk to the environment (including people and communities, and natural and physical resources). If not correctly managed, adverse environmental effects are likely to occur.

Issue Statement

In the City many activities (such as commercial cleaners, warehouses and the port) are involved in the storage, transportation or use of hazardous substances. Some of the substances are highly toxic and if released to the environment could seriously compromise natural and physical values, as well as creating a risk to people and communities.

An acceptable level of risk is to be achieved, particularly where certain measures are required to reduce the risk to the local community, property and the wider environment. The three main types of environmental risk associated with hazardous substances are as follows:

- Fire/explosion
- Human health
- Environmental

Because of the nature of many hazardous substances, danger to people and/or their property, or contamination of the environment is always a possibility. This possibility is dramatically decreased when the substances are correctly used, stored, transported, handled, or disposed of. There is an onus on businesses to apply appropriate *site* management measures and/or staff training to assist in this regard.

The Council has a duty under section 31 of the RMA to “control any actual or potential effects of the use, development or protection of land including ... (ii) the prevention or mitigation of any adverse effects of the storage, use, disposal or transportation of hazardous substances”.

In addition to the provisions of the Plan dealing with hazardous substances the following must also be adhered to:

- The relevant rules of the Bay of Plenty Regional Council Regional Planning documents.
- Regulations for hazardous substances under the Hazardous Substances and New Organisms Act 1996 (The HSNO Act), administered primarily by the Environmental Risk Management Authority and the Department of Labour.

4.2.1 Objectives

This table identifies the appropriateness of the listed objectives in achieving the purpose of the RMA.

Objective Number	Objective	Appropriateness
9.2.1.1	Objective - Prevention or Mitigation of Adverse Environmental Effects and Minimisation of Risk Adverse environmental effects and/or risks to human health, property and/or the receiving environment associated with facilities and activities involving the manufacture, storage, use, transportation and/or disposal of hazardous substances are prevented or mitigated.	<p><i>It is considered that the proposed Objective is the most appropriate way to achieve the purpose of the RMA for the following reasons:</i></p> <ul style="list-style-type: none"> • <i>It meets the legislative requirement for the Council to address storage, use, transportation and disposal of hazardous substances.</i> • <i>It is in line with Council’s responsibilities under the Regional Policy Statement.</i> • <i>It addresses the issue in respect to the risks posed by hazardous substances.</i> • <i>It defines the actions necessary to achieve the desired environmental outcome.</i>

Objective 9.2.1.1 is addressed through Policy 9.2.1.1.1, 9.2.1.1.2, 9.2.1.1.3, 9.2.1.1.4 and 9.2.1.1.5. These policies are to be achieved through:

- Rules relating to Hazardous Substances.

4.2.2 Policies and Methods.

<i>Policies</i>	<p>9.2.1.1.1 Policy - Location of Hazardous Facilities</p> <p>By ensuring that facilities involving the manufacture, storage, use, disposal and transportation of hazardous substances are located so the risk to the wider environment is prevented or mitigated. In particular, facilities should avoid locating adjacent to water bodies, residential areas or other sensitive receiving environments unless the potential adverse effects of any failure of the facility, storage device or systems can be avoided.</p>
<i>Costs</i>	<ul style="list-style-type: none"> • <i>Locating hazardous facilities, and modification to existing facilities, may be restricted nearby sensitive receiving environments.</i> • <i>Works to prevent or mitigate risk may also add costs to hazardous facilities.</i>
<i>Benefits</i>	<ul style="list-style-type: none"> • <i>Provides overall direction and guidance for the location of hazardous substance facilities.</i> • <i>Recognises the need to protect sensitive receiving environments</i>
<i>Risk</i>	<i>High risk if hazardous substance facility locates adjacent to a sensitive receiving environment without addressing potential adverse effects.</i>
<i>Efficiency</i>	<i>Efficient in clearly identifying that hazardous substance facilities need to take into account the wider environment when determining location.</i>
<i>Effectiveness</i>	<i>Effective in providing for facilities to locate nearby sensitive environments where adverse effects can be avoided.</i>
<i>Appropriateness</i>	<i>Appropriate as a means of implementing the objective to prevent or mitigate adverse effects associated with hazardous substance facilities and activities. It also achieves the requirements of the RMA, specifically Councils functions under section 31(b).</i>

<i>Policies</i>	<p>9.2.1.1.2 Policy - Design and Management of Hazardous Facilities</p> <p>By ensuring that facilities involving the manufacture, storage, use, disposal or transportation of hazardous substances are designed, constructed and managed to prevent or mitigate adverse environmental effects and minimise risks to the environment.</p>
<i>Costs</i>	<ul style="list-style-type: none"> • <i>Design requirements to prevent or mitigate adverse effects may add to the development costs of the hazardous facility.</i>
<i>Benefits</i>	<ul style="list-style-type: none"> • <i>Ensures that the protection of the environment is a key consideration in the design, construction and management of hazardous facilities.</i>
<i>Risk</i>	<i>High risk if the hazardous facility is not designed, constructed or managed to prevent or mitigate adverse effects on, or risk to, the environment.</i>
<i>Efficiency</i>	<i>Efficient in providing clear guidance on design, construction and management considerations.</i>

<i>Effectiveness</i>	<i>Effective in ensuring that the design, construction and management prevents or mitigates adverse environmental effects.</i>
<i>Appropriateness</i>	<i>Appropriate as a means of implementing the objective to prevent or mitigate adverse effects associated with hazardous substances facilities by ensuring that these facilities are designed, constructed and managed appropriately. It also achieves the requirements of the RMA, specifically Councils functions under section 31(b).</i>

<i>Policies</i>	<p>9.2.1.1.3 Policy – Risk Management</p> <p>By ensuring that all hazardous substances facilities have emergency contingency plans or strategies capable of avoiding, remedying or mitigating adverse environmental effects upon failure of the facility, primary storage device or accidental spill or release during handling or transfer.</p>
<i>Costs</i>	<ul style="list-style-type: none"> • <i>Cost in developing and implementing contingency plans and strategies.</i>
<i>Benefits</i>	<ul style="list-style-type: none"> • <i>Contingency plans and strategies will assist in avoiding, remedying or mitigating adverse environmental effects.</i>
<i>Risk</i>	<i>High risk of adverse environmental effects if no plans or strategies are in place when failure or accidental spill occurs.</i>
<i>Efficiency</i>	<i>Efficient in providing clear guidance on the necessity to have contingency plans and strategies in place</i>
<i>Effectiveness</i>	<i>Effective at ensuring that where failure or accidental spill should occur it is appropriately managed.</i>
<i>Appropriateness</i>	<i>Appropriate as a means of implementing the objective to prevent or mitigate adverse effects associated with hazardous substances facilities by ensuring contingency plans and strategies are in place prior to an event occurring. It also achieves the requirements of the RMA, specifically Councils functions under section 31(b).</i>

<i>Policies</i>	<p>9.2.1.1.4 Policy - Storage and Use of Hazardous Substances</p> <p>By ensuring that the storage or use of hazardous substances does not result in cumulative adverse effects, particularly through increased risk to the natural or physical environment or to the safety, health or well-being of people and communities.</p>
<i>Costs</i>	<ul style="list-style-type: none"> • <i>The on-site location of storage or use of hazardous substances may be restricted to certain areas which may reduce the usable area of the hazardous facility.</i>
<i>Benefits</i>	<ul style="list-style-type: none"> • <i>Cumulative effects are appropriately managed to minimise risk particularly where a low risk individual hazardous facility may potentially become higher risk where in close proximity to other hazardous substance facilities, or due to incompatibility of on-site</i>

	<i>storage and use of hazardous substances.</i>
<i>Risk</i>	<i>High risk if controls to appropriately minimise cumulative risk of hazardous substance facilities in close proximity to each other are not established and implemented.</i>
<i>Efficiency</i>	<i>Efficient in clearly identifying that potential cumulative risk need be considered in the storage and use of hazardous substances.</i>
<i>Effectiveness</i>	<i>Effective in ensuring that the risk of storage and use of hazardous substances does not cumulatively result in adverse effects.</i>
<i>Appropriateness</i>	<i>Appropriate as a means of implementing the objective to prevent or mitigate adverse effects associated with hazardous substance facilities by ensuring that storage or use of hazardous substances does not cumulatively result in adverse effects. It also achieves the requirements of the RMA, specifically Councils functions under section 31(b).</i>

<i>Policies</i>	<p>9.2.1.1.5 Policy - Management of Hazardous Substances within Height Area 1 at the Port of Tauranga</p> <p>By ensuring that transitional storage of hazardous substances within the Port of Tauranga operational area is appropriately managed to prevent or mitigate adverse environmental effects and/or risks to human health, property and/or the receiving environment, while recognising the complexity of port operations.</p>
<i>Costs</i>	<ul style="list-style-type: none"> • <i>Cost of developing, implementing and reviewing a site management plan for the transitional storage of hazardous substances.</i>
<i>Benefits</i>	<ul style="list-style-type: none"> • <i>Risks associated with the transitional storage of hazardous substances are appropriately managed</i>
<i>Risk</i>	<i>High risk if transitional storage of hazardous substances is not appropriately managed particularly given to the nature of port operations where significant quantities of hazardous substances may be present at certain times.</i>
<i>Efficiency</i>	<i>Efficient in clearly identifying the risk associated with transitional storage of hazardous substances at the Port.</i>
<i>Effectiveness</i>	<i>Effective in ensuring that transitional storage of hazardous substances at the Port is appropriately managed.</i>
<i>Appropriateness</i>	<i>Appropriate as a means of implementing the objective to prevent or mitigate adverse effects associated with hazardous substance facilities by ensuring that transitional storage of hazardous substances at the Port is appropriately managed while not placing undue restrictions on Port operations. It also achieves the requirements of the RMA, specifically Councils functions under section 31(b).</i>

<i>Rules</i>	<p>Permitted Activity Rules 9.4</p> <p>The Hazardous Facilities Screening Procedure (HFSP) has been employed to determine consent status, with a number of exemptions from</p>
--------------	---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

	<p>the HFSP assessment including for domestic scale use where specified quantity thresholds are not exceeded.</p> <p>Restricted Discretionary Rules 9.5 Provide further assessment for hazardous facilities with a higher risk level, based on HFSP results which determine this activity class, in terms of mitigation measures, emergency contingency measures and risk management techniques.</p> <p>Discretionary Rules 9.6 Provide further assessment for hazardous facilities with a higher risk level, based on HFSP results which determine this activity class, in terms of mitigation measures, emergency contingency measures and risk management techniques.</p>
Costs	<ul style="list-style-type: none"> • <i>Time spent processing applications – all except exempt activities need to pass through the screening procedure.</i> • <i>Difficult for the public to understand without technical assistance.</i> • <i>Cost of monitoring compliance with permitted activity rules and resource consent conditions.</i>
Benefits	<ul style="list-style-type: none"> • <i>Allows for effects based controls of hazardous facilities</i> • <i>Allows for recognition and protection of particularly sensitive environments from the risks of fire, explosion and toxicity.</i> • <i>Ensures a high level of environmental and public health and safety protection.</i>
Risk	<p><i>While there is a risk that the perceived complexity of the HFSP process to determine consent status of an activity involving hazardous substances may discourage people from determining their consent status, formatting changes to the structure of Chapter and the introduction of a domestic scale quantity table will assist in making the provisions more understandable.</i></p> <p><i>The risk of not acting is that a complete lack of provisions would fail to recognise the location specific risks to the environment presented by hazardous facilities as a complete reliance on the HSNO Act would be all that remain. This is considered inappropriate as it would present the potential for substances to be stored in inappropriate circumstances.</i></p>
Efficiency	<i>Efficient in addressing the stated Issue by implementing the Objective and Policy framework.</i>
Effectiveness	<i>Effective in addressing the stated Issue by implementing the Objective and Policy framework.</i>
Appropriateness	<i>Appropriate as it addresses the stated Issue by implementing the Objective and Policy framework It also achieves the requirements of the RMA, specifically Councils functions under Section 31(b).</i>

4.2.3 Alternatives

Alternative 1	Status Quo
Costs	<ul style="list-style-type: none"> • <i>Time spent processing applications – all but exempt activities need to pass through the screening procedure.</i> • <i>Difficult for public to understand without technical assistance.</i> • <i>The costs of monitoring compliance with permitted activity conditions and resource consent conditions.</i> • <i>Uncertainty as to how to quantify domestic scale as a permitted exemption, which may heighten risk of adverse effects.</i> • <i>Cumulatively exemption for retail of domestic scale quantities of</i>

	<i>hazardous substances may become a significant risk.</i>
<i>Benefits</i>	<ul style="list-style-type: none"> • <i>Allows for effects based controls of hazardous facilities.</i> • <i>Allows for recognition and protection of particularly sensitive environments from the risks of fire, explosion and toxicity.</i> • <i>Ensures a high level of environmental and public health and safety protection.</i> • <i>Potentially less hazardous substance facilities being required to undertake HFSP assessment.</i>
<i>Risk</i>	<p><i>The risk of acting on this alternative is that people may not refer to the Plan provisions and in relying on the provisions of the HSNO Act may establish activities which are inappropriate given the nature of the surrounding environment. There is also a risk that the perceived complexity of the process which is required under this approach to determine the consent status of an activity involving substances will discourage people from determining their consent status. Uncertainty as to what constitutes ‘ domestic scale’ provides further risk of adverse environmental effects occurring.</i></p> <p><i>The risk of not acting on this alternative without a substitute is the possibility of activities permitted under HSNO having adverse effects on the environment as a result of accidental release, fire, or explosion. The effects of such an event will differ depending on the location of the facilities and any additional measures put in place to deal with such an incident.</i></p>
<i>Efficiency</i>	<i>Not as efficient in addressing the stated Issue by implementing the Objective and Policy framework.</i>
<i>Effectiveness</i>	<i>Not as effective in addressing the stated Issue by implementing the Objective and Policy framework.</i>
<i>Appropriateness</i>	<i>Not as appropriate in addressing the stated Issue, implementing the Objective and Policy framework, or meeting the requirements of the RMA, specifically Councils functions under Section 31(b).</i>

<i>Alternative 2</i>	Quantity Based Hazardous Facilities Consent Status Table
<i>Costs</i>	<ul style="list-style-type: none"> • <i>Is not as effects based as HFSP</i> • <i>The costs of monitoring compliance with minimum performance standards and resource consent conditions.</i> • <i>The cost of devising and implementing the new assessment process.</i>
<i>Benefits</i>	<ul style="list-style-type: none"> • <i>Quick and easy to comprehend consent status of an activity.</i> • <i>Ensures a high level of environmental and public health and safety protection.</i>
<i>Risk</i>	<p><i>The risk of acting on this alternative is that people may not refer to the Plan provisions and in relying on the provisions of the HSNO Act may establish activities which are inappropriate given the nature of the surrounding environment.</i></p> <p><i>The risk of not acting on this alternative without a substitute is the possibility of activities permitted under HSNO having adverse effects on the environment as a result of accidental release, fire, or explosion. The effects of such an event will differ depending on the location of the facilities and any additional measures put in place to deal with such an incident.</i></p>

<i>Efficiency</i>	<i>Not as efficient in addressing the stated Issue by implementing the Objective and Policy framework.</i>
<i>Effectiveness</i>	<i>Not as effective in addressing the stated Issue by implementing the Objective and Policy framework.</i>
<i>Appropriateness</i>	<i>Not as appropriate in addressing the stated Issue, implementing the Objective and Policy framework, or meeting the requirements of the RMA, specifically Councils functions under Section 31(b).</i>

Alternative 3	Activity Listing and Rules
<i>Costs</i>	<ul style="list-style-type: none"> • <i>Is not effects based</i> • <i>Cannot take into account location specific consideration including the location of sensitive receiving environments.</i>
<i>Benefits</i>	<ul style="list-style-type: none"> • <i>No perceived confusion over HSNO Act and RMA controls.</i> • <i>Easily comprehended by members of the public.</i>
<i>Risk</i>	<p><i>The risk of acting on this alternative is the possibility of activities permitted under HSNO having adverse effects on the environment as a result of accidental release, fire or explosion. The effects of such an event will differ depending on the location of the facilities and any additional measures put in place to deal with such an incident.</i></p> <p><i>The risk of not acting on this alternative is that a complete lack of provisions would fail to recognise the location specific risks to the environment presented by hazardous facilities as a complete reliance on the HSNO Act would be all that would remain.</i></p>
<i>Efficiency</i>	<i>Not efficient in addressing the stated Issue by implementing the Objective and Policy framework.</i>
<i>Effectiveness</i>	<i>Not effective in addressing the stated Issue by implementing the Objective and Policy framework.</i>
<i>Appropriateness</i>	<i>Not appropriate in addressing the stated Issue, implementing the Objective and Policy framework, or meeting the requirements of the RMA, specifically Councils functions under Section 31(b).</i>

General

The emphasis of the RMA is on sustainable management and the avoidance, remediation and mitigation of environmental effects. Control mechanisms for hazardous substances should focus on facilities or activities generating the effect, rather than on the intrinsic properties of the hazardous substance alone.

The provisions of the RMA and HSNO Act work in a complementary manner to manage hazardous substances and their impact on the environment (including people and communities, and natural and physical resources).

The storage, use, transportation and disposal of hazardous substances is controlled under the HSNO Act provisions, regardless of location. However, where necessary, more stringent measures than those required under such HSNO Act provisions, may be imposed to manage the risk to more sensitive environments.

A review clause can be included in any resource consent conditions, where deemed necessary, to address any future changes in the environment, codes of practice, technology or legislation.

Management of Risk

To accurately assess the potential adverse effects resulting from hazardous substance facilities this Plan has incorporated a nationally recognised Hazardous Facility Screening Procedure (HFSP). As part of this procedure, potential adverse effects have been categorised according to their effect on:

- Human health
- Environmental quality
- Site volatility caused by fire and/or explosion risk.

The nature and scale of environmental effects and risks associated with hazardous substance facilities are influenced by their proximity to sensitive receiving environments, such as waterways or residential areas or places where large numbers of people are likely to congregate. Generally, the closer these facilities are to sensitive environments, the greater the likelihood of environmental risk. Hazardous substance facilities should therefore be located so their inherent risk is minimised. Specific controls arising from the implementation of the HFSP and zoning policies will directly affect the location of these activities and influence the levels of risk they pose to the wider environment (including people and communities, and natural and physical resources).

Design and Management of Facilities

Proper design and construction of a hazardous substance facility is critical to the long-term avoidance or mitigation of potential adverse effects on the environment (including people and communities, and natural and physical resources), as is the ongoing management of the operation. *Site* management has the ability to greatly reduce the possibility of future environmental degradation and personal injury. The permitted activity standards in *the Plan* cover matters of design and construction, eg, material to aid the prevention or minimisation of adverse environmental effects.

Protective measures against water and soil pollution are required in areas used for industrial processing, storage of materials, loading and unloading of vehicles and washdown facilities. These measures require the provision of impervious surfacing, contouring and containing, e.g., by bunding, drainage into sealed catchment areas and the installation of traps for grease and dirt.

Use and Storage of Hazardous Substances

The use of hazardous substances can provide benefits to the community by meeting consumer needs for products and services, but facilities or activities involving hazardous substances can also present a risk. In some cases, the risk may be of particular concern because of the proximity of sensitive ecological areas or residential land uses. Because similar industries are often located together, risks to the wider environment needs to be assessed in terms of actual or likely cumulative affects presented by a number of hazardous substance facilities in any one area. Individual hazardous substance facilities may have a low risk, but cumulatively they could generate adverse effects if site design factors and management procedures are not met.

The application of standards, a buffer separation between different land-use zones and a monitoring/education programme that identifies the nature and risks associated with the substances, provide the means by which environmental risk can be effectively managed. The use of a Hazardous Substances Site Management Plan for the transit hazardous substances within the Port of Tauranga operational area is an effective approach to demonstrate compliance for management and mitigation measures.

Transportation and Disposal of Hazardous Substances

Other legislation, regulations, standards, codes of practice and regional plans also help to manage the storage, use, transportation and disposal of hazardous substances. Where more appropriate, these other provisions will be used to manage the hazardous facilities and activities, particularly for the transportation and disposal of hazardous substances. This includes the Land Transport Rule: Dangerous Goods 1999, and the Transport Act 1962, which requires hazardous substances to be transported according to an existing standard (NZ Standard 5433, 1999 - Code of Practice for the Transport of Dangerous Goods on Land).

4.3 Issue 2 - Risk from Contaminated Land

The subdivision, use or development of potentially and confirmed contaminated land presents a risk to the environment (including people and communities, and natural and physical resources). If not correctly managed, adverse environmental effects are likely to occur.

Issue Statement

There are a number of sites in the City which have become contaminated to varying degrees through discharge or spillage of hazardous substances. Where a site has contaminated land, the risks are as follows:

- People, animals and ecosystems can be exposed to hazardous substances on contaminated land from direct contact with contaminated soil, swallowing food or water from contaminated environments and breathing vapours or contaminated dust;
- Exposure to hazardous substances can have significant adverse effects on human health and on soil, surface water, groundwater and ecosystems; possibly limiting use of land, or causing corrosion that may threaten infrastructure, buildings and structures, and may have implications for land value.
- Contamination may spread beyond a site through the soil into groundwater, or be carried to nearby land in stormwater run-off or on wind blown dust particles. Vapour and gases from contaminated land may present additional risks of explosion, toxicity and odour.

Essentially, there are three components necessary to establish there is an environmental risk associated with contaminated land:

- Contamination, i.e. concentrations of the contaminant exceed established soil guideline values for the particular hazardous substance; and
- Receptors – people, animals and ecosystems – subject to exposure to the contamination
- Effect of this exposure is or is likely to have significant adverse effects on the environment.

All three aspects need to be present for the site to be of concern and to require remediation or some form of management plan.

Some contaminated land can remain where this is acceptable for the existing use, such as timber treatment yards continuing with timber treatment operations, and a management plan has been prepared, or where remediation has been undertaken. The Bay of Plenty Regional Council has records of such confirmed contaminated sites where the risks associated with land contamination are clearly known.

There are three main ways where the risks associated with known contaminated land can be “triggered”:

- Earthworks and disturbance of contaminated land
- Subdivision to create new property and change of ownership, possibly new activities
- Change of use, where potentially a more sensitive activity is to use the site.

The risks posed by contaminated land need to be actively controlled.

4.3.1 Objectives

This table identifies the appropriateness of the listed objectives in achieving the purpose of the RMA.

Objective Number	Objective	Appropriateness
9.8.1.1	Objective – Managing Risks of Potentially Contaminated Land Significant risks to human health and the environment posed by potentially contaminated land are identified and addressed as part of the subdivision or development process.	<i>It is considered that the proposed Objective is the most appropriate way to achieve the purpose of the RMA for the following reasons:</i> <ul style="list-style-type: none"> • <i>It meets the legislative requirement for the Council to address any adverse effects of the development, subdivision, or use of contaminated land.</i> • <i>It is in line with Council’s responsibilities under the Regional Policy Statement, and Regional Water and Land Plan.</i> • <i>It addresses the issue in respect to the risks posed by potentially contaminated land.</i> • <i>It defines the actions necessary to achieve the desired environmental outcome.</i>

Objective 9.8.1.1 is addressed through Policy 9.8.1.1.

This Policy is to be achieved through:

- Rules relating to Contaminated Land.

Objective Number	Objective	Appropriateness
9.8.1.2	Objective - Managing Risks for Contaminated Land. Significant risks to human health and the environment posed by remediation, subdivision, use and redevelopment of contaminated land are prevented or mitigated.	<i>It is considered that the proposed Objective is the most appropriate way to achieve the purpose of the RMA for the following reasons:</i> <ul style="list-style-type: none"> • <i>It meets the legislative requirement for the Council to address any adverse effects of the development, subdivision, or use of contaminated land.</i> • <i>It is in line with Council’s responsibilities under the Regional Policy Statement, and Regional Water and Land Plan.</i> • <i>It addresses the issue in respect to the risks posed by confirmed contaminated land.</i> • <i>It defines the actions necessary to achieve the desired environmental outcome.</i>

Objective 9.8.1.2 is addressed through Policies 9.8.1.2.1, 9.8.1.2.2, and 9.8.1.2.3. These Policies are to be achieved through:

- Rules relating to Contaminated Land.

4.3.2 Policies and Methods.

<i>Policies and Methods</i>	9.8.1.1 Policy – Investigation of Potentially Contaminated Land By requiring subdivision and/or development sites that have a history of land-use that could have resulted in contamination of the soil to undertake soil testing to confirm whether that land is fit for increased exposure to humans and the environment.
<i>Costs</i>	<ul style="list-style-type: none"> • <i>There will costs associated with preparing a site investigation report and undertaking soil testing where it is required.</i>
<i>Benefits</i>	<ul style="list-style-type: none"> • <i>Establishes whether land is contaminated or not, and if so the level and type of contamination to guide decision making.</i> • <i>Protects environmental and human health from risks associated with contaminated land.</i> • <i>Only requires sites that have a history of land-use that may have resulted in contamination to be investigated.</i>
<i>Risk</i>	<i>Potentially high risk if there is increased environmental or human exposure to undetected contaminated land.</i>
<i>Efficiency</i>	<i>Efficient in providing clear guidance that soil testing may be required when potentially contaminated land is developed or subdivided.</i>
<i>Effectiveness</i>	<i>Effective in requiring that land that may be subject to contamination is investigated to ensure that it is suitable for its intended use.</i>
<i>Appropriateness</i>	<i>Appropriate as a means of implementing the objective to identify and address significant risks posed by potentially contaminated land by requiring that soil testing is undertaken where required to ensure that it is safe for its end use, while . It also achieves the requirements of the RMA, specifically Councils functions under section 31(b)(ii).</i>

<i>Policies and Methods</i>	9.8.1.2.1 Policy – Prevention or Mitigation of Adverse Effects for Contaminated Land By ensuring that all remediation, subdivision, use and redevelopment of land affected by soil contamination prevents or mitigates adverse effects and significant risk on human health and the environment.
<i>Costs</i>	<ul style="list-style-type: none"> • <i>Consenting and compliance costs.</i> • <i>Costs associated with methods adopted for remediation or management, containment or removal of contaminated soils, which may limit development potential for some property owners.</i>
<i>Benefits</i>	<ul style="list-style-type: none"> • <i>Prevents or mitigates potential adverse effects associated with remediation, subdivision, use and development of contaminated land.</i> • <i>Only required for land that is confirmed contaminated.</i> • <i>Reduces risk to human and environmental health</i>
<i>Risk</i>	<i>Potentially high risk of adverse effects on human health and the environment if remediation, subdivision, use and redevelopment of contaminated land is permitted to occur without appropriate controls in</i>

	<i>place.</i>
<i>Efficiency</i>	<i>Efficient in clearly identifying the need to consider risk to human health and the environment in the subdivision, use or (re)development of contaminated land</i>
<i>Effectiveness</i>	<i>Effective in requiring that adverse effects on human health and environment be addressed.</i>
<i>Appropriateness</i>	<i>Appropriate as a means of implementing the objective to prevent or mitigate significant risks posed by the remediation, subdivision, use and redevelopment of contaminated land by requiring adverse effects on human health and the environment be appropriately addressed. It also achieves the requirements of the RMA, specifically Councils functions under section 31(b)(ii).</i>

<i>Policies and Methods</i>	9.8.1.2.2 Policy – Management Measures for Contaminated Land By requiring management measures for contaminated land that provide for remediation, or containment, or disposal of contaminated soil, so that the level of contamination is appropriate for any likely future use of the land.
<i>Costs</i>	<ul style="list-style-type: none"> • <i>Costs associated with devising and implementing the management measures employed.</i> • <i>Consenting and compliance costs</i>
<i>Benefits</i>	<ul style="list-style-type: none"> • <i>Ensures that land is safe for its intended use.</i> • <i>Establishes the necessity for management measures to be put in place.</i> • <i>Reduces risk to human and environmental health</i>
<i>Risk</i>	<i>Potentially high risk as in the absence of appropriate management measures, significant adverse environmental effects may result</i>
<i>Efficiency</i>	<i>Efficient in identifying what management measures are to provide for.</i>
<i>Effectiveness</i>	<i>Effective in ensuring that the level of contamination is appropriate for future use.</i>
<i>Appropriateness</i>	<p><i>Appropriate as it achieves the requirements of the RMA, specifically Councils functions under Section 31(b).</i></p> <p><i>Appropriate as a means of implementing the objective to prevent or mitigate significant risks posed by the remediation, subdivision, use and redevelopment of contaminated land by requiring appropriate management measures for remediation, containment or disposal of contaminated soil. It also achieves the requirements of the RMA, specifically Councils functions under section 31(b)(ii).</i></p>

<i>Policies and Methods</i>	9.8.1.2.3 Policy – Risk Management for use of Contaminated Land By ensuring that exposure from the on-going use of land affected by soil contaminants is managed in a manner that prevents or mitigates any adverse effects on human health and the environment.
<i>Costs</i>	<ul style="list-style-type: none"> • <i>Costs associated with devising and implementing the management methods adopted, and monitoring these.</i>

<i>Benefits</i>	<ul style="list-style-type: none"> • Ensures that longer term, the risk posed to the environment by contaminated land is managed. • Ensures that the on-going use of land affected by soil contaminants is managed appropriately • Provides for some contaminated land to remain where this is acceptable for the existing use provided a management plan has been prepared.
<i>Risk</i>	Potentially high risk of adverse effects if the on-going use of land affected by contamination is not managed appropriately.
<i>Efficiency</i>	Efficient in providing clear guidance that a management plan will be required for the on-going use of land affected by soil contaminants.
<i>Effectiveness</i>	Effective in enabling land affected by soil contaminants to be productively used where an appropriate management plan to ensure exposure does not result in adverse effects.
<i>Appropriateness</i>	Appropriate as a means of implementing the objective to prevent or mitigate significant risks posed by the remediation, subdivision, use and redevelopment of contaminated land by requiring that exposure from the on-going use of land affected by soil contaminants is managed appropriately, while enabling productive use of such land. It also achieves the requirements of the RMA, specifically Councils functions under section 31(b)(ii).

<i>Rules</i>	<p>Permitted Activity Rules– Rule 9.9.1 and Rule 9.9.2</p> <p>Provides a process for identifying whether land is contaminated or not, and where contamination is suspected a process to confirm contamination where there is not a safe separation distance between the proposed allotment or activity and the land potentially contaminated.</p>
	<p>Restricted Discretionary Activity Rules 9.9.3</p> <p>Provides for assessment of the methods adopted for remediation or management, containment or removal of contaminated soils.</p>
	<p>Discretionary Activity Rules 9.9.4</p> <p>Provides for use, development or subdivision of land not provided for under the Restricted Discretionary provisions for confirmed contamination.</p>
<i>Costs</i>	<ul style="list-style-type: none"> • Cost of a site investigation report where a former HAIL activity is identified, and soil testing where there is not a safe separation distance between the proposed activity and the contaminated land, and consent processing where land is confirmed contaminated.
<i>Benefits</i>	<ul style="list-style-type: none"> • Provides a legitimate and clear process for identifying land that may be potentially contaminated, and if so, whether it is contaminated. • Ensures that methods adopted for remediation or management, containment or removal of contaminated soil is carried out appropriately so as to protect human health and the environment. • Flexibility is provided to ensure that where there is a safe

	<i>separation distance from the proposed allotments or land-use activity and the potentially contaminated land, soil testing will not be required.</i>
<i>Risk</i>	<p><i>There is risk in acting that in order to avoid the imposition of controls the public may be less willing to identify land which may be contaminated as a result of historical land-uses.</i></p> <p><i>The risk of not acting is that Council will not fulfil the requirement of section 31(b)(iia) of the RMA, and risk to human health and environment remain should contaminated land be developed without controls or knowledge of contamination or potential contamination.</i></p>
<i>Efficiency</i>	<i>Efficient in addressing the stated Issue by implementing the Objective and Policy framework.</i>
<i>Effectiveness</i>	<i>Effective in addressing the stated Issue by implementing the Objective and Policy framework.</i>
<i>Appropriateness</i>	<i>Appropriate as it addresses the stated Issue by implementing the Objective and Policy framework It also achieves the requirements of the RMA, specifically Councils functions under Section 31(b)(ii).</i>

4.3.3 Alternatives

<i>Alternative 1</i>	Do Nothing (Status Quo)
<i>Costs</i>	<ul style="list-style-type: none"> • <i>It does not implement effects based controls,</i> • <i>It is not consistent with section 31 (b)(iia) of the RMA which requires “the prevention or mitigation of any adverse effects of the development, subdivision or use of contaminated land”.</i>
<i>Benefits</i>	<ul style="list-style-type: none"> • <i>Simplicity in administration.</i> • <i>Allows development of land which may otherwise require significant investment⁶ to be remediated to a standard considered appropriate for the intended use.</i> • <i>No additional costs related with environmental protection in the redevelopment or remediation of contaminated land or investigation of potentially contaminated land, though confirmed contaminated land would be subject to the remediation provisions of the Regional Land and Water Plan.</i>
<i>Risk</i>	<p><i>There is risk in acting that in order to avoid the imposition of controls the public may be less willing to identify land which may be contaminated as a result of historical land-uses.</i></p> <p><i>The risk of not acting is that Council will not fulfil the requirement of section 31(b)(iia) of the RMA, and risk to human health and environment remain should contaminated land be developed without controls or knowledge of contamination or potential contamination.</i></p>
<i>Efficiency</i>	<i>Not efficient in addressing the stated Issue or implementing the Objective and Policy framework.</i>
<i>Effectiveness</i>	<i>Not effective in addressing the stated Issue or implementing the Objective and Policy framework.</i>
<i>Appropriateness</i>	<i>Not appropriate in addressing the stated Issue, implementing the Objective and Policy framework, or meeting the requirements of the RMA, specifically Councils functions under Section 31(b)(ii).</i>

<i>Alternative 2</i>	Provision of Information and Education
<i>Costs</i>	<ul style="list-style-type: none"> • <i>No obligation on developers and property owners to comply with good site management or design principles contained in educational messages.</i> • <i>Lack of certainty and time taken (usually years) to bring about widespread results.</i> • <i>Cost of producing, revising and distributing non-statutory management, site design guidelines and information sheets.</i> • <i>Cost of dealing with public concerns and complaints about the location and impacts of hazardous facilities.</i>
<i>Benefits</i>	<ul style="list-style-type: none"> • <i>Makes developers and property owners more aware of the environmental risks associated with hazardous facilities and contaminated land.</i> • <i>Involves consultation and participation with the community.</i> • <i>Low level of Council intervention.</i> • <i>May enable the identification of contaminated or potentially contaminated land of which Council was not previously aware through people being aware of the risks they present and notifying Council of their presence where it may not have previously been aware.</i>
<i>Risk</i>	<p><i>The risk of taking this approach in isolation of a regulatory approach is Council not fulfilling the requirement of section 31(b)(ia) of the RMA.</i></p> <p><i>The risk of not acting on this option is that lack of awareness of provisions may lead to development taking place on land which is not already identified as contaminated or potentially contaminated. This may present a risk to people or the environment where education could have made the persons carrying out the work aware of the risks of contamination presented by historical land-uses.</i></p>
<i>Efficiency</i>	<i>Not efficient in addressing the stated Issue or implementing the Objective and Policy framework.</i>
<i>Effectiveness</i>	<i>Not effective in addressing the stated Issue or implementing the Objective and Policy framework.</i>
<i>Appropriateness</i>	<i>Not appropriate in addressing the stated Issue, implementing the Objective and Policy framework, or meeting the requirements of the RMA, specifically Councils functions under Section 31(b).</i>

Risk Management

The proposed provisions provide a framework that clearly establishes the need to prevent and mitigate any adverse effects of the development, subdivision or use of contaminated land. They focus on contaminated land (not just on potentially contaminated land, and not on sites) and on the risk to people and communities, ecosystems and their constituent parts (environment).

Management Measures for Contaminated Land

Contaminated land can be identified from records held by the Bay of Plenty Regional Council and also through soil testing in accordance with MfE guidelines for contaminated land management (CLMG series).

Soil investigations are required for sites with a history of activities which have the potential to cause land contamination (HAIL) to identify whether soil contamination is present or not. Where the site investigation report determines that the contaminated land is separated from the proposed new allotments or land-use activity by a safe separation soil testing will not be required. All soil investigations/testing is to be a permitted activity, to avoid unnecessary consents.

The proposed provisions require restricted discretionary resource consent for earthworks, subdivision and use or development of contaminated land (based on confirmed contaminated land) to prevent or mitigate any adverse effects on the environment. The matters of discretion are to address the methods required for remediation, containment or management, or removal, unless the contaminated land is already managed, deemed acceptable, remediated, or where the contaminated soils have been contained or removed. For sites where contamination is deemed acceptable/ remediated, or no contamination has been identified according to the Bay of Plenty Regional Council records, a written statement from the Bay of Plenty Regional Council to confirm the contaminated land status will be required.

4.4 The Costs and Benefits of the Proposed Policies, Rules or other Methods

Section 32(4) (a) and (b) are set out below. For the Council to be satisfied that the evaluation in s32(3) has been completed the Council must:

For the purpose of this examination, an evaluation must take into account –

- (a) the benefits and costs of policies, rules, or other methods; and*
- (b) the risk of acting or not acting if there is uncertain or insufficient information about the subject matter of the policies, rules, or other methods.*

The Council has assessed the particular costs and benefits of the proposed policies rules and other methods above. The key costs and benefits of hazardous substances and contaminated land provisions are:

Costs

Hazardous Substances

- Locating hazardous facilities, and modification to existing facilities, may be restricted nearby sensitive receiving environments.
- Works to prevent or mitigate risk may also add costs to hazardous facilities.
- Design requirements to prevent or mitigate adverse effects may add to the development costs of the hazardous facility.
- Cost in developing and implementing contingency plans and strategies.
- The on-site location of storage or use of hazardous substances may be restricted to certain areas which may reduce the usable area of the hazardous facility.
- Time spent processing applications – all except exempt activities need to pass through the screening procedure.
- Difficult for the public to understand HFSP without technical assistance.
- Cost of monitoring compliance with permitted activity rules and resource consent conditions.
- Cost of developing, implementing and reviewing a site management plan for the transitional storage of hazardous substances.

Contaminated Land

- Consenting and compliance costs.
- Costs associated with devising and implementing the management methods adopted, and monitoring these.
- There will costs associated with preparing a site investigation report and undertaking soil testing where it is required.
- Costs associated with methods adopted for remediation or management, containment or removal of contaminated soils, which may limit development potential for some property owners.

Benefits

Hazardous Substances

- Provides overall direction and guidance for the location of hazardous substance facilities.
- Recognises the need to protect sensitive receiving environments
- Ensures that the protection of the environment is a key consideration in the design, construction and management of hazardous facilities.
- Contingency plans and strategies will assist in avoiding, remedying or mitigating adverse environmental effects.
- Cumulative effects are appropriately managed to minimise risk particularly where a low risk individual hazardous facility may potentially become higher risk where in close proximity to other hazardous substance facilities, or due to incompatibility of on-site storage and use of hazardous substances.
- Risks associated with the transitional storage of hazardous substances are appropriately managed.
- HFSP allows for effects based controls of hazardous facilities
- Allows for recognition and protection of particularly sensitive environments from the risks of fire, explosion and toxicity.
- Ensures a high level of environmental and public health and safety protection.

Contaminated Land

- Reduces risk to human and environmental health
- Ensures that land is safe for its intended use.
- Only requires sites that have a history of land-use that may have resulted in contamination to be investigated.
- Flexibility is provided to ensure that where there is a safe separation distance from the proposed allotments or land-use activity and the potentially contaminated land, soil testing will not be required.
- Provides a legitimate and clear process for identifying land that may be potentially contaminated, and if so, whether it is contaminated.
- Establishes whether land is contaminated or not, and if so the level and type of contamination to guide decision making.
- Provides for some contaminated land to remain where this is acceptable for the existing use provided a management plan has been prepared.
- Establishes the necessity for management measures to be put in place for the subdivision, use or development of contaminated land.
- Ensures that methods adopted for remediation or management, containment or removal of contaminated soil is carried out appropriately so as to protect human health and the environment.
- Restricted Discretionary provisions only applicable to land that is confirmed contaminated.

Hazardous Substances

It is considered that the proposed changes through the District Plan Review achieves an overall net benefit by ensuring that any actual or potential adverse effects that may be associated with the storage, use, disposal or transportation of hazardous substances are prevented or mitigated, and risks minimised. The introduction of a quantity based activity table provides certainty and clarity as to when the domestic scale use exemption is exceeded requiring a full HFSP assessment to be undertaken. The requirement for the retail of domestic scale quantities of hazardous substances to be subject to an HFSP assessment reduces risks associated with these hazardous substance facilities.

The Council considers that the alternative means, such as relying on an activity listing and rules, will not achieve the purpose of the Act and will not result in sustainable management in terms of the RMA.

Contaminated Land

For Contaminated Land it is considered that the proposed changes through the District Plan Review achieves an overall net benefit by ensuring that significant risks to human health and the environment posed by contaminated land are identified and addressed as part of the subdivision or development process.

The Council considers that the alternative means, such as relying on information and education, will not achieve the purpose of the RMA and will not result in sustainable management in terms of the RMA.

4.5 Monitoring Proposed Plan Provisions (EREs)

Hazardous Substances

ERE	Indicator	Evaluation of Plan Effectiveness
Appropriate siting and control of hazardous substance facilities.	<ul style="list-style-type: none">• Monitoring resource consents including the number of applications granted consent, compliance with consent conditions and effectiveness of those conditions.• Monitoring complaints and enforcement actions.• Monitoring trends through analysing statistics (e.g.; Building consents).	<ul style="list-style-type: none">• Reduction in enforcement actions from non-compliance with resource consents for hazardous substance facilities.
Avoidance of unacceptable risk to the community and the environment from the storage, use, transportation and disposal of hazardous	<ul style="list-style-type: none">• Monitoring resource consents including the number of applications granted consent, compliance with consent conditions and effectiveness of those conditions.• Monitoring complaints and	<ul style="list-style-type: none">• Reduction in reported incidents at hazardous substance facilities, such as a fire, explosion, toxic gas release or ecotoxic discharge.

substances.	<p>enforcement actions.</p> <ul style="list-style-type: none"> Monitoring reported incidents. Scientific measurement (e.g. of air/ water quality) 	
The avoidance of contamination of the natural environment from the storage, use, transportation and disposal of hazardous substances.	<ul style="list-style-type: none"> Monitoring resource consents including the number of applications granted consent, compliance with consent conditions and effectiveness of those conditions. Monitoring complaints and enforcement actions. Scientific measurement (eg of air/ water quality) 	<ul style="list-style-type: none"> Reduction in enforcement actions triggered by environmental contamination from hazardous substance facilities.
Improved community and industry awareness of the risks posed by activities that store, use, transport and dispose of hazardous substances.	<ul style="list-style-type: none"> Monitoring complaints and enforcement actions. Undertaking surveys. 	<ul style="list-style-type: none"> Increased awareness by survey respondents of the risks posed. Complaints received demonstrating greater understanding of risks posed.

Contaminated Land

ERE	Indicator	Evaluation of Plan Effectiveness
Avoidance of unacceptable risk to the community and the environment from the use, development or subdivision of contaminated land.	<ul style="list-style-type: none"> Monitoring complaints and enforcement actions. Monitoring resource consents including the number of applications granted consent, compliance with consent conditions and effectiveness of those conditions. 	<ul style="list-style-type: none"> Increase in sites identified as contaminated. Increase in number of contaminated sites and area of contaminated land remediated or managed.
Identification of contaminated land as part of the subdivision or development process.	<ul style="list-style-type: none"> Monitoring the number of site investigation reports prepared. Monitoring the number and results of required soil testing. 	<ul style="list-style-type: none"> Increasing number of site investigation reports prepared for sites subject to former HAIL.
Management measures that are appropriate for any likely future use of contaminated land.	<ul style="list-style-type: none"> Monitoring resource consents including the number of applications granted consent, compliance with consent conditions and effectiveness of those 	<ul style="list-style-type: none"> Reduction in enforcement actions triggered by non-compliance with resource consent conditions in respect to contaminated land.

	<p>conditions.</p> <ul style="list-style-type: none"> • Monitoring complaints and enforcement actions. 	
<p>Improved community and industry awareness of the risks posed by, and the activities and industries likely to cause, contaminated land.</p>	<ul style="list-style-type: none"> • Monitoring complaints and enforcement actions. • Undertaking surveys. 	<ul style="list-style-type: none"> • Increased awareness of survey respondents to the risks posed. • Complaints received demonstrating greater understanding of risks posed.

5. RECOMMENDED OBJECTIVES, POLICIES AND METHODS

The recommended plan content is to utilise the existing provisions of the Operative District Plan in respect to hazardous substances, and as they are still relevant to refine these based upon the drafting guidelines for the Tauranga City Plan. The implementation of the operative Plan provisions has identified difficulty in quantifying what is a domestic scale use, and a quantity based table has been inserted into the Plan to address this. A new section on contaminated land has been included in the Plan to meet Council's responsibilities under the RMA, introduced via the Resource Management Amendment Act 2005

Council has a clear function under Section 31(b) to control of any actual or potential effects of the use, development, or protection of land, including for the purpose of the prevention or mitigation of any adverse effects of the:

- storage, use, disposal, or transportation of hazardous substances; and
- development, subdivision, or use of contaminated land.

The Objectives, Policies and Methods seek to do this, through an overall philosophy of preventing or mitigating adverse effects and minimising risk.

Objectives and Policies are recommended to manage:

- The adverse environmental effects and/or risks to human health, property and/or the receiving environment associated with facilities and activities involving the manufacture, storage, use, transportation and/or disposal of hazardous substances; and
- Significant risks to human health and the environment posed by contaminated land.

Objectives, Policies and Rules have been developed for:

- Hazardous substance facilities; and
- Areas subject to contaminated soil.

6. NOTIFICATION AND RECOMMENDED DECISIONS

This section to be completed following hearings.

Appendix A: Review of Draft Tauranga City Plan provisions for contaminated soils/ hazardous substances, URS, 5 August 2009.