TIMARU DISTRICT COUNCIL
Te Kaunihera ā-Rohe o Te Tihi o Maru

YOUR PLAN OUR FUTURE
TIMARU DISTRICT PLAN REVIEW

Versatile Soils and Contaminated Land S.32

May 2022

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TIMARU DISTRICT PLAN REVIEW
LAND USE PLAN

Timaru District Council

Section 32 Report

District Plan Review

Versatile Soils and

Contaminated Land

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Contents

1 Soils – Versatile Soils and Contaminated Land

1.1 Introduction

Soils are a natural resource, and under the RMA, their use, development and protection must be managed to sustain their potential to meet the needs of future generations and safe-guard their life-supporting capacity.

This topic consists of two sub-topics that relate to management of soils - the management of versatile soils and the management of contaminated land.

For versatile soils, which are a particularly important resource within the District for farming activities, this is about managing subdivision, land use and development activities in a way that maintains its ongoing ability to be used for a range of productive activities. The proposed District Plan seeks to achieve this through a versatile soil overlay, which encompasses land classified under the land use capability classification system as Class 1 or 2, with additional provisions applying within the overlay area.

Contaminated land can pose a risk to the environment and to people's health and safety if it is not identified and managed properly. In particular, subdivision, development, or change of use of contaminated land can expose people and the environment to increased levels of contamination from hazardous substances that were previously used or stored on site. The National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health (NESCS) contains a national rule framework for managing contaminated land but, as a Standard, does not include objective and policy guidance.

1.2 Community / Stakeholder / Iwi Engagement

In November 2016, as part of the consultation on soils, minerals and earthworks, community feedback was sought on whether higher quality soils need to be protected in a manner different to other soil types within rural areas, and if so how.

Community feedback on the topic was generally supportive of protecting high quality soils, primarily for food production, but considered that the District Plan should focus protection measures on the use of the land, including restrictions on buildings, rather than on allotment size. Some feedback also considered that identification of high-quality soils should consider factors other than soil types, including ground contour and availability of irrigation.

Timaru District Council published a Draft District Plan for public comment in October 2020. Several feedback points regarding contaminated land and versatile soils were provided, which staff have worked through, to amend and update the plan as appropriate. These can be summarised as below:

Contaminated land feedback:

- Much of the feedback was supportive of the approach to have few provisions relating to contaminated land as the National Environmental Standard for assessing and managing contaminants in soil to protect human health, is the appropriate method of management;
- There was feedback that the objective O1 and Policy P1 should be amended to delete the reference to land disturbance, as this action is generally need for any development of a site. Including subdivision and land use change, is sufficient.

- The policy P2 could be simplified to not prejudge how a contaminated site should be managed.
- The deletion of policy P3 as it is considered unnecessary and creates a distinction between 'management' and other methods such as 'remediation, containment or disposal'.

No specific consultation was undertaken on management of contaminated land.

Versatile Soils feedback

- There was general support for the provisions to enable primary production on versatile soils and to avoid reverse sensitivity impacts on primary production.
- Strong support for the specific objective to protect versatile soils from inappropriate subdivision, use and development and rural lifestyle expansion.
- Schools and education facilities should be exempt from rules that protect versatile soils from impervious surfaces.
- Remove unclear wording.
- Support for the recognition that activities necessary to support farming are provided for on versatile soils, where necessary.
- Opposition to the provisions which don't recognise that intensive primary production which need to locate in rural areas and hence should be excluded from the rules.
- Impervious surfaces provisions need to exclude existing roads/road reserves.

1.3 Strategic directions

SD-O9 Rural Areas
A range of primarily productive activities are enabled in the rural environment to enable the ongoing use of land for primary production for present and future generations, while: 1. Protecting versatile soils for productive uses; 2. managing the adverse effects of intensive activities on sensitive activities; 3. managing the adverse effects of new sensitive activities on primary production; 4. avoiding activities that have no functional/operational need to locate in the rural area; 5. identifying and maintaining the character, qualities and amenity values of rural areas; 6. ensuring Future Development Area overlay remains available for future urban or rural lifestyle development.

This direction is relevant because it explicitly seeks to protect versatile soils.

1.4 Problem definition

1.4.1 Operative Plan provisions

Versatile Soils

The Operative District Plan manages versatile soils by identifying Class 1 and 2 soils (under the land use capability classification system) as the Rural 2 Zone. The policy explanation to the rural zones states that greater limitations are placed on the subdivision, development, and establishment of buildings in this zone than the Rural 1 Zone, to protect the versatility of this resource for future generations.

At an objective and policy level, the overarching direction for rural zones seeks to manage land in the district for the greatest benefit of present and future generations while safeguarding the life-supporting capacity of soil and ecosystems and avoiding, remedying, or mitigating any

adverse environmental effects[1]. The related policy seeks to provide for a range of land use activities in rural areas, while managing their adverse environmental effects through the different zones.[2] Objective 1.1.6 also seeks to protect (amongst other things) soil integrity, with the related policy seeking to manage adverse effects of some land uses, with consideration given to various factors, including soil cover and soil integrity.[3] The Plan also seeks to manage adverse effects of intensive development in rural areas[4], providing for a range of sites and uses where environmental effects, including cumulative effects are addressed.[5] The issue explanation notes that continued subdivision within the rural area could have a range of adverse effects, including impacts on subdivision on versatile land.

The operative District Plan also contains a Land Resources Chapter. It seeks to achieve the sustainability of the district's land resources, including by managing the stock of versatile land for the greatest benefit to present and future generations.[6] At a policy level, development that would result in irreversible adverse effects on versatile soils is discouraged, unless it is for the overall benefit of the community including future generations. It is noted that such effects may include coverage, compaction, or removal of versatile land.[7] As noted above, the intended method of implementation is through separately zoning versatile land, with resource consent applications in this zone then assessed in relation to their adverse effects on versatile land.

To implement the policy direction, the Plan manages some activities, including subdivision, differently in the Rural 2 zone than in the Rural 1 zone.

For subdivision, the Rural 1 Zone generally has a minimum 40ha requirement. However, there are also opportunities to create rural living sites of 1000m^2 – 2ha (with the minimum size depending on effluent disposal), where balance titles of 10ha are retained. In the Rural 2 Zone, a minimum area of 10ha is required, with no provision for any rural living sites.

While many of the rules for activities in both the Rural 1 and Rural 2 zones are the same, some activities are managed more stringently in the Rural 2 Zone. The following table identifies those activities that are different between the zones:

Status	Rural 1 (non-versatile areas)	Rural 2 (Class 1 and 2 soils)
The harvesting of indigenous vegetation carried out under a sustainable management plan approved under Part III(a) of the Forests Act 1949.	Permitted	Non-complying (by default)
Mining or quarrying outside of riverbeds	Permitted - less than 100m3 per annum. Discretionary – more than 100m^3	Non-complying (by default)
Meteorological activities	Permitted	Non-complying (by default)

[1] 1.1.2 Objective, Part D1 – Rural Zones.
[2] 1.1.3 Policy (1), Part D1 – Rural Zones.
[3] 1.1.7 Policy (a), Part D1 – Rural Zones.
[4] 1.2.2 Objective, Part D1 – Rural Zones.
[5] 1.2.3 Policy (1), Part D1 – Rural Zones.
[6] Objective (1), Part B, 1 – Land Resources.
[7] Policy (3), Part B, 1 – Land Resources

Tracks or bridges outside of road reserves	Permitted	Discretionary
Prospecting and exploration as defined in the Crown Minerals Act 1991	Permitted	Controlled
Tree planting, earthworks (including tracking) and structures above 900 metres in altitude	Controlled	Non-complying (by default)
Existing legally established quarries, for the purposes of protecting, restoring and/or repairing infrastructure assets threatened by or resulting from natural hazard events.	Controlled	Non-complying (by default)
Factory farming, Outdoor pig farming	Discretionary	Non-complying (by default)
Other commercial and community activities (e.g., offices, boarding kennels, education facilities, places of assembly, travellers accommodation, commercial airstrips, emergency services facilities)	Discretionary	Non-complying (by default)
Industrial uses	Discretionary	Discretionary where it is a rural industry ancillary to farming only, otherwise non-complying
Activities listed as permitted, controlled or discretionary in the Rural 1 Zone but not provided for in Rural 2 zone	N/A	Discretionary – only where it can be demonstrated that the activity is not located on Class 1 or 2 land

The difficulty with this approach, is that non-complying activities are generally understood to be activities that are discouraged or not anticipated, on the basis that they are generally not expected to meet the plan's policy direction and/or may compromise achievement of the objectives. The current approach therefore could be taken as implying that all these non-complying activities are expected to have irreversible adverse effects on the versatility of the soil. In practical terms, the activities themselves are unlikely to have a direct impact on the soil, and it is more that: many will involve buildings and other impervious surfaces (for example car parking) that will remove areas from use for farming activities; and/or these activities could result in areas not being used for farming activities. However, a blanket non-complying activity status does not reflect that in some instances these activities may not have irreversible adverse effects on the versatility of the soil, and may not result in

coverage, compaction, or removal of versatile land. They may also be appropriate, in some instances, to support farming activities.

Contaminated Land

The operative District Plan includes some high-level outcomes and direction in relation to the management of land resources that is relevant to managing contaminated sites. This includes an aim of achieving the sustainability of the district's land resource by maintaining the life-supporting capacity of soils and restoring degraded land[8], with policy direction including those areas where degradation of the land resource has occurred or potentially could occur, are identified.[9]

Of some limited relevance, Chapters 5(a) also includes the framework relating to the management of solid waste and 5(b) to liquid waste management. While these provisions include the consideration of effects of contamination, this relates specifically to managing waste activities in relation to their potential to result in contamination of land, rather than providing direction on managing already contaminated land. Chapter 5(c) pertains to management of hazardous substances and is predominantly focussed on managing activities involving hazardous substances. However, one of the methods relates to including known contaminated sites on a hazards register, so that these sites are recognised, and parties are aware of their contamination.

In broad terms, the operative District Plan lacks any specific direction on how existing, or potential contaminated sites should be managed, instead focusing more on the management of activities to avoid contamination arising.

1.4.2 Issues identified

Versatile soils are an important physical resource within the district. Some subdivision, land use and development activities may compromise its ongoing ability to be used productively.

The Government has released a proposed National Policy Statement for Highly Productive Land (pNPSHPL) intended to provide greater clarity on how to manage highly productive land under the RMA. It states that primary production is often given inadequate consideration in RMA decision-making, resulting in uncoordinated urban expansion over, and fragmentation of, highly productive land, when less productive land may be available and better suited for urban use, preventing the use of this finite resource by future generations. The pNPSHPL would require the Council to identify highly productive land within the District Plan, and to protect it from inappropriate subdivision, use and development. From a timing perspective, the process directed in the pNPSHPL would require that regional councils first undertake the identification assessment, with this then implemented through district plans. The criteria for identifying highly productive land would include consideration of land use capability classification, but also include other factors. The ability for Timaru District to fully implement the pNPSHPL, in terms of identification of highly productive land, is therefore dependent on Environment Canterbury completing the identification. Once gazetted, an NPS would need to be given effect to through the district plan. However, it is not certain when this NPS will be gazetted, nor to what extent the final version will change from the proposed version. This results in a level of uncertainty as to how these soils should be managed in the District Plan.

Under the operative District Plan, versatile soils are identified through a specific Rural 2 zoning, distinguishing it from lower quality soils that are zoned Rural 1. Generally, the two zones are managed

[8] Objective (1), Part B, 1 – Land Resources
[9] Policy (1), Part B, 1 – Land Resources.

in the same or a similar way, with the main differences being that there are less opportunities for smaller lot subdivision within the Rural 2 zone compared to the Rural 1 zone. There are also some non-productive activities, and activities that disturb land which have a more stringent activity status in the Rural 2 Zone.

In terms of the area to which the Rural 2 Zone applies, it has been identified that this does not align with Environment Canterbury's more up-to-date mapping of Class 1 and Class 2 soils. This means that some areas may be subject to the Rural 2 framework that do not contain Class 1 or 2 soils, or conversely, there may be areas that contain Class 1 or 2 soils that are not currently identified as such.

Contaminated land, where it is disturbed, poses a risk to the environment and to people's health and safety. The operative District Plan does not include a chapter for contaminated land, and while it does contain high-level outcomes and direction in relation to managing land resources to maintain the life-supporting capacity of soils, the framework is more focussed on managing activities to avoid or minimise potential for contamination to occur, rather than managing land that is, or is potentially, already contaminated.

The National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health (NESCS) contains a national rule framework for managing contaminated land and is administered by territorial authorities. The district plan cannot contain a rule that duplicates or conflicts with the NESCS. However, as a national environmental standard, it only contains rules, and does not contain any objective or policy direction to guide the Council when processing consents. The CRPS, which the proposed District Plan must give effect to, directs territorial authorities to set out objectives, policies, or methods to require specific measures to be undertaken in relation to contaminated land (refer to Section 1.5 below for detail).

The approach taken in other district plans to these issues is set out below:

Versatile Soils

Plan	Description of Approach
Hurunui District Plan (Operative 2018) Second generation plan, prepared prior to the National Planning Standards, and after the NESCS Chapter 3 – Rural	Seeks to manage rural areas so that primary production activities can be carried out efficiently and effectively and seeks to protect highly productive soils by discouraging activities that will have adverse effects on their continued productive use and life-supporting characteristics that are difficult to reverse. However, rules in the Rural and subdivision chapters do not specifically address the protection of highly productive soils.
Ashburton District Plan Second generation plan, prepared prior to the National Planning Standards	The Rural chapter seeks to enable primary production through the protection and use of highly versatile and/or productive soils and the management of potential adverse effects and directs that highly productive/ versatile soils are not developed for residential or non-rural activities, and extractive processes that deplete the topsoil or subsoil are discouraged. There are no rules specific to versatile soils, but the policy direction is given effect to through rules and controls on residential density and building coverage, and what activities are enabled in the rural zones.

Christchurch District Plan (Operative December 2017) Second generation plan, prepared prior to the National Planning Standards	Does not specifically define or identify versatile soils and does not include particular direction relating to soils. It does contain assessment matters for subdivision and earthworks that consider the effects on the use of versatile soils for these activities.
Waimate District Plan (Operative 2014) Second generation plan, prepared prior to the National Planning Standards	Seeks that fragmentation which may foreclose the ability to use soil for productive purposes is avoided, with explanation including discussion on versatile soils. Largely focusses on achieving this through controls on subdivision.

Contaminated Land

Plan	Local Authority	Description of Approach
Hurunui District Plan (Operative 2018) Second generation plan, prepared prior to the National Planning Standards, and after the NESCS	Hurunui District Council	Includes a chapter on contaminated land, with a single overarching objective and three policies.
Proposed New Plymouth District Plan (notified September 2019) Prepared under the National Planning Standards	New Plymouth District Council	Includes a chapter on contaminated land, with a single overarching objective and two policies.
Christchurch District Plan (Operative December 2017) Second generation plan, prepared prior to the National Planning Standards, and after the NESCS	Christchurch District Council	Includes a chapter on contaminated land, with a single overarching objective and three policies.

1.5 Statutory and Planning Context

1.5.1 Resource Management Act

Section 5 - Purpose

The sustainable management purpose of the RMA seeks to promote the sustainable management of natural and physical resources. As applicable to the soil's topic, sustainable management includes managing the use, development, and protection of natural resources, to provide for the wellbeing of people and communities, while sustaining the potential natural resources to meet the needs of future generation, and safe-guarding the life-supporting capacity of soil.

Section 7 – Other matters

Section 7 lists matters to which persons excercising functions and powers under the RMA are to have particular regard to.

This includes the efficient use and development of natural and physical resources (s7(b)). Both the proposed Versatile soils chapter as well as the Contaminated land chapter seek to ensure that soils, as a natural resource are used in an efficient way, taking into account their particular nature (versatility or contamination).

Section 7(f) pertains to the maintenance and enhancement of the quality of the environment. The Contaminated land chapter includes provisions that seek to manage contaminated land to address its potential effects on the quality of the environment, and in particular to ensure that that potential effects on the environment from contamination are improved, or made no worse.

Section 7(g) relates to any finite characteristics of natural resources. The Verstaile soils provisions are specifically targetted at soils that, if not managed appropriately, could lose their ability to be used for primary production.

Section 31 - Functions of territorial authorities

Section 31(1) of the RMA lists territorial authority functions under the RMA, which include the following, relevant to the soils topic:

> *(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:*

More specifically in relation to contaminated land, the following specific function is included:

> *(b) the control of any actual or potential effects of the use, development, or protection of land, including for the purpose of-*
>
> *(iia) the prevention or mitigation of any adverse effects of the development, subdivision, or use of contaminated land:*

District Plan must give effect to:	
Document	**Relevance**
National Planning Standards 2019	The purpose of the National Planning Standards (the Standards) is to improve consistency in plan and policy statement structure, format and content. The District Plan must give effect to the Standards. Of relevance to the soils topic, Standard 7 (District-wide Matters Standard) requires that if provisions are included to manage contaminated land, they must be located within the Contaminated land chapter (within the Hazards and risk chapter, within Part 2, District Wide Matters.) In terms of versatile soils, the Standards do not provide for a specific chapter or section for this matter. However, clause 38 in Standard 7 (District-wide Matters Standard), states that any additional chapters that address other matters on a district-wide basis are to be included under the 'General district-wide matters' heading. The District Spatial Layers Standard (Standard 12) allows for various specified spatial layers to be used within a district plan. Overlays are to be used to spatially identify "*distinctive values, risks or other factors which require management in a different manner from underlying zone provisions*". This applies to the proposed versatile soils overlay, which seeks to manage soils with particular values in a manner different from the underlying zone provisions.

Canterbury Regional Policy Statement 2013 (CRPS)	Chapter 5 of the CRPS provides direction in relation to land-use and infrastructure. It is relevant to the framework for versatile soil, as it directs that the natural resources contributing to the region's rural productive economy are maintained and enhanced, in areas which are valued for existing or foreseeable future primary production, by avoiding development or fragmentation which forecloses the ability to make appropriate use of that land for primary production. It also requires that territorial authorities set out objectives and policies which identify areas to be used for primary production and control adverse effects of subdivision and land-use in rural areas by ensuring it does not foreclose the ability to utilise natural resources such as soil which is valued for rural productive purposes. Chapter 15 of the CRPS relates to soils, and seeks to maintain and improve the quality of soil, including to safeguard its productive capacity. It requires territorial authorities to set out objectives and policies that help ensure land use activities and land management practises do not cause significant long term adverse effects on soil quality. In terms of contaminated land, Chapter 17 of the CRPS seeks protection of people and the environment from adverse effects of contaminated land. It directs the identification of contaminated land, and requires territorial authorities to set out objectives, policies or methods to require: investigation of contaminated or potentially contaminated land, prior to new subdivision, use or development of that land that could increase adverse effects resulting from contamination; management of adverse effect of contaminated land, and any remediation or mitigation works, in a way that does not lead to further significant adverse effects on the environment.

District Plan must not duplicate or conflict with:	
Document	**Relevance**
National Environmental Standards for Assessing and Managing Contaminants in Soil to Protect Human Health 2011 (NESCS)	The NESCS is a nationally consistent set of planning controls and soil contaminant values, providing national standards that relate to territorial authority functions. The NESCS ensures that land affected by contaminants in soil is appropriately identified and assessed before it is developed. The District Plan must not contain rules that duplicate or conflict with the NESCS. However, the NESCS does not include policy and objective direction for the Council to consider when processing consents required under the NESCS.

District Plan must not be inconsistent with:	
Document	**Relevance**
Canterbury Land and Water Regional Plan	The CLWRP contains objectives, policies and rules that manage land and water within the region, in relation to the functions of the regional council. It contains provisions that manage contaminated land, such as the passive discharge of contaminants from contaminated land onto or into land. The District Plan must not be inconsistent with the CLWRP.

District Plan must consider:	
Document	**Relevance**
Iwi Management Plan of Kati Huirapa 1992 (IMP)	The IMP includes direction seeking that the use, storage and transport of hazardous substances are controlled to ensure that they do not cause any damage to the natural environment or place the environment or people at risk from contamination. While this is also relevant to the management of hazardous substances (which is a separate topic), it is also applicable to how land already contaminated from hazardous substances is managed.

District Plan must have regard to:	
Document	**Relevance**
Growth Management Strategy (GMS)	The GMS sets out the long-term strategic approach to managing land use growth in the Timaru District. It includes 12 Strategic Directions outlining what the district would look like in 2045 if the GMS were achieved. Of relevance to this topic is Strategic Direction 9 – Rural - which seeks to provide for the efficient and effective functioning of rural areas, through encouraging the use and development of natural and physical resources that enable rural activities to support the district. The relevant directives in the growth management approach are: • District Character 4: *Protect the character of rural and undeveloped areas, and maintain their capacity to function as predominantly productive, recreational, and natural environments.*; and • Rural 3: *Recognise and provide for values associated with: productive rural land; …* Part F – Growth Settlement Patterns, F:7 relates to rural areas, and seek that in 2045, the rural environment remains at the heart of the district's economy and its high quality productive soils are protected.
Long Term Plan 2018-28 (LTP)	The LTP sets out the Council's strategic direction, including a vision, community outcomes and strategic priorities. The Vision includes a '*thriving and innovative economy where opportunities abound'*. The LTP notes that this will include building on the economy's agricultural roots and valuing the environment from which raw materials are sourced. Community Outcome 1 seeks '*smart, diversified economic success and growth supported and enabled'.* Community Outcome 4 seeks '*A valued, healthy and accessible environment'.* Also relevant to the soil's topic is one of the Strategic Priorities to *'Support areas of economic and district strength'.*

1.5.2 Other relevant documents

As noted earlier, the Government has released a proposed National Policy Statement for Highly Productive Land (pNPSHPL). While there is no statutory obligation under the RMA to consider the pNPSHPL, it is prudent to do so, because once gazetted, the Council will be required to give effect to it in the district plan.

The pNPSHPL seeks to elevate the importance of highly productive land within the RMA planning hierarchy and help ensure the benefits and value of highly productive land are given more weight in land-use planning and decision-making. It would require local authorities to identify highly productive land based on a set of defined criteria and then require the availability of that land to be maintained for primary production purposes into the future and protected from inappropriate use and development. This would include a specific requirement to set minimum lot size standards for subdivision on highly productive land to retain its productive capacity. It would also require new sensitive and potentially incompatible activities on highly productive land to be restricted to address potentially reverse sensitivity effects arising. As proposed, the NPSHPL would also set direction for consideration of plan change requests and resource consent applications.

2 Approach to Evaluation

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

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

The proposed provisions relevant to the Versatile soils and Contaminated land chapters have been assessed in accordance with the following issues:

Issue 1: Subdivision, land use and development activities may compromise the ongoing ability for versatile soils to be used productively.

Issue 2: Contaminated land, where it is disturbed, poses a risk to the environment and to people's health and safety. The NESCS contains a national rule framework for managing contaminated land but does not contain any objective or policy direction to guide the Council when processing consents.

2.1 Scale and significance

The table below sets out the scale and significance of managing soils in the district in terms of Council's statutory obligations, who may be affected by any proposed changes to the management regime, the type of effects that may occur and where in the District is mostly likely to be affected by the proposed changes to the District Plan. This will inform the nature and extent of the analysis of the proposed changes to the soil provisions. For example, proposed provisions that will result in an overall high level of scale and significance will require a more in-depth analysis of proposed objectives, policies and rules including, potentially, an economic analysis, compared to changes that will have a low-level significance.

Issues:
Subdivision, land use and development activities may compromise the ongoing ability for versatile soils to be used productively.

Contaminated land, where it is disturbed, poses a risk to the environment and to people's health and safety. The NESCS contains a national rule framework for managing contaminated land but does not contain any objective or policy direction to guide the Council when processing consents.		
Reasons for change in policy	District Plan Review. Giving effect to the National Planning Standards. Giving effect to the CRPS direction on contaminated land. Having regard to the efficient use and development of physical resources (s7(b) of the RMA); the maintenance and enhancement of the quality of the environment (s7(f) of the RMA); and the finite characteristic of natural and physical resources (s7(g) of the RMA).	Low
Relevant Statutory Considerations / Drivers	RMA Sections 5, 7(b), (f) and (g) CRPS Chapters 5, 15 and 17.	Low
Degree of shift from status quo required	Does not change fundamental approach to identifying versatile soils and targeting management within these areas. Introduces some new controls and more direct policy guidance and assessment criteria for proposals within the overlay. Introduces more direct policy guidance for contaminated land but does alter current consent requirements which are set in the NESCS.	Low
Who and how many will be affected?	Landowners within the versatile soils overlay. Landowners and developers with contaminated or potentially contaminated land.	Low-Medium
Degree of impact on, or interest from iwi / Maori	Versatile soil is not a matter considered in any relevant iwi management plan. Management of contaminated land is consistent with direction in IMP.	Low-Medium
When will affects occur?	Versatile soil provisions will apply to new proposals for subdivision or land use within the overlay. Contaminated land provisions will apply when subdivision or change of use or development of contaminated or potentially contaminated land is proposed.	Low-Medium
Geographic scale of impacts / issue	Versatile soil provisions will apply within the identified overlay. This overlay will be updated as part of the District Plan review but largely reflects the current Rural 2 zoning, so will continue to impact largely the same area as at present. Contaminated land provisions will only apply to contaminated land, and to requirements to assess potentially contaminated land.	Low-Medium

Type of effect(s)	Versatile soils provisions will introduce new limits on site coverage and additional matters of consideration for various land use activities and subdivision. Contaminated land provisions will introduce new policy direction for consideration in resource consent applications but will not change trigger for when resource consent is required.	Low
Degree of policy risk, implementation risk, or uncertainty	The proposed approach to versatile soils is not dissimilar to the current approach and therefore is reasonably certain. However, there is uncertainty as to the final form of the pNPSHPL and the extent to which it may require additional changes to the plan framework. There is low risk associated with the policy framework for contaminated land, which is similar to that contained in another district plans in Canterbury.	Low-Medium
Overall Assessment of Scale and Significance		Low-Medium

2.2 Approach to managing soils

It is proposed to manage versatile soil within the district by way of an overlay. An evaluation of the use of an overlay, instead of retaining a separate zone for versatile soils, is evaluated in the Section 32 report for the rural zone's topic: this Section 32 report focusses more specifically on the provisions applying to the overlay area.

It is proposed that within the overlay:

- The activity status is not altered from that of the underlying General rural zoning, on the basis that permitted activities are those which are either the type of productive activities for which the versatility of the soil is to be protected, or they will not have inappropriate adverse effects on the versatility of the soil. As such, they are expected to achieve the outcomes sought for the versatile soil overlay without the need for an additional layer of control.
- Where an activity requires resource consent as a discretionary or non-complying activity, the objective and policy direction in the Versatile soils chapter can be considered, and where activities may have adverse effects on the versatility of the soil, the policies will provide clear direction on this.
- To address the potential effects of coverage of versatile soils, new controls are added to limit the area of any versatile soil that can be covered by impervious surfaces, with a resource consent requirement for coverage beyond these limits.
- To address the potential effects of disturbance of versatile soils, additional matters of discretion are proposed within the earthworks chapter, allowing for effects on versatile soils to be considered. Permitted earthworks are considered to achieve the outcomes sought for the versatile soil overlay without the need for an additional layer of control.
- Subdivision is managed in accordance with the General rural zoning, as the proposed framework for subdivision within the zone is considered to already avoid fragmentation which would foreclose the ability to make appropriate use of that land for primary production.
- Policy direction is provided to require that residential expansion into the overlay achieves specified criteria.
- Policy direction is included to minimise expansion of the Rural lifestyle zone into the overlay, as this would result in an inefficient use of such land

Aside from the mapping of the Versatile soils overlay, the provisions proposed for the overlay are considered to generally align with the direction in the pNPSHPL. Depending on the final form of the pNPSHPL, some changes to provisions may be required to give full effect to it.

The NESCS provides a nationwide set of rules for managing contaminated land. However, as an NES, there is no policy direction or guidance as to the outcome sought, for consent applicants or council staff to rely on. The CRPS also includes direction to territorial authorities on management of contaminated land which the District Plan must give effect to. It is proposed to include a Contaminated land chapter in the proposed District Plan that includes an objective and policy direction to guide the management of contaminated land.

2.3 Changes proposed

Operative Plan	Proposed Plan
Areas of versatile soil identified as Rural 2 Zone. An entire set of provisions manage activities within the Zone, with a large amount of duplication with the way activities are managed in the Rural 1 Zone	Versatile soil areas area zoned General rural zone and identified as an overlay. Activities are managed in accordance with the underlying General rural zone, with additional controls or considerations applying within the overlay area.
Objective and policy direction that applies generally across the rural area, with reliance on split zoning to manage effects on versatile soils in absence of specific direction.	A clear objective on what is sought for versatile soils, with related policy direction on how this is intended to be achieved.
Management of activities within versatile areas managed on an activity-basis, with the inference that any non-farming activity is expected to adversely affect the versatility of the soils.	Management of activities within versatile areas managed on an effects basis, whereby activities that may adversely affect the versatility of the soil can be considered on a case-by-case basis as to whether they meet the policy direction.
No specific controls on site coverage	Limits placed on coverage within the versatile soil overlay, with a resource consent requirement triggered beyond permitted thresholds
No specific policy framework for managing contaminated land.	Specific objective and policy direction to guide processing of consents under the NESCS

2.4 Quantification of Costs and Benefits

Section 32(2)(b) requires that if practicable the benefits and costs of a proposal are quantified. In this case, it is considered difficult to quantify either the effects from contaminated land on the environment and human health if not managed properly. Similarly, it is difficult to quantify the benefits and costs of the proposed policy framework and, whether it imposes additional costs to those already established through the NESCS.

In relation to versatile soils, it is also difficult to quantify in monetary terms the potential costs and benefits of the proposed provisions. It is noted that the Ministry for Primary Industries undertook a cost-benefit assessment on the pNPSHPL. Although the assessment is indicative and based on assumptions about how the NPS would be given effect to by council, it was generally undertaken

based on modelling projected rural lifestyle subdivision on Class I, II and III soils, with and without the proposed NPS, to enable an estimate of the avoided loss of primary production gross output to be estimated.

2.5 Choice of Evaluation Method(s)

Given the low-moderate scale and significance of the issues related to soils, the more targeted approach proposed to managing soils from the operative District Plan and the requirement in the CRPS relating to contaminated land and areas valued for rural productive purposes, the approach taken to evaluation is to assess the preferred option against the operative District Plan provisions (status quo). The options will be assessed using a cost-benefit analysis.

2.6 Proposed objectives

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

Option 1: Includes the following objectives:

VS-O1 Protection of Versatile Soils
Versatile soils remain available for non-intensive primary production and are protected from inappropriate subdivision, use and development.

CL-O1 Management of contaminated land
Contaminated land is made safe for human health and its intended use before any change of use, land disturbance, development, or subdivision.

3 Evaluation of Objectives

Section 32(1)(a) requires an examination of the extent to which the proposed objectives are the most appropriate way to achieve the purpose of the RMA. The following table has been used to evaluate the appropriateness of the relevant objectives.

Category	Criteria	Comments
Relevance	Directed to addressing a resource management issue	Achieves The proposed objectives directly respond to the issues identified by seeking to: retain availability of versatile soils for on intensive primary production and protect them from inappropriate activities; and to ensure contaminated land is made safe for human health. The focus on non-intensive primary production reflects those other activities within the broader definition of 'primary production' may compromise the productive potential of the soil, such as quarrying or forestry.
	Focused on achieving the purpose of the Act	Achieves VS-O1 provides specific guidance on how particular natural resources (versatile soils) are to be managed to provide for people and

		communities wellbeing, in this case, through continued availability of the resource for farming. CL-O1 directly relates to managing the adverse effects of activities involving contaminated land on the environment and in relation to the health and safety of people and communities.
	Assists a council to carry out its statutory functions	Achieves VS-O1 relates to achieving integrated management of the effects of the use, development, and protection of a particular natural resource within the district (s31(1)(a)). CL-O1 relates to controlling effects of the use of contaminated land to protect human health.
	Within scope of higher-level documents	Achieves The proposed objectives align with the relevant direction in the CRPS.
Feasibility	Acceptable level of uncertainty and risk	Partly achieves For versatile soils, the outcomes sought are certain, align with the CRPS direction and at a broad level with the pNPSHPL. However, there is a level of risk associated with the objective because there is uncertainty over the final form of the pNPSHPL. In relation to the contaminated land, there is low risk associated with the outcome sought as it aligns with the direction in the CRPS and is consistent the approach taken in other recent district plans.
	Realistically able to be achieved within council's powers, skills and resources	Achieves The objectives relate to powers the Council has under the RMA to achieve integrated management of the effects of the use, development, or protection of land and associated natural resources of the district; and to control the effects of the use, development or protection of land for the purpose of preventing or mitigating any adverse effects of the development, subdivision, or use of contaminated land. Achievement of the outcomes sought is considered achievable within the Council's skills and resources.
Acceptability	Consistent with identified iwi/Māori and community outcomes	Achieves The outcomes expressed in the objectives are consistent with community feedback on the Issues and Options Paper, and the Draft District Plan and align with the broad community outcomes sought in the LTP.

	Will not result in unjustifiably high costs on the community or parts of the community	Achieves The outcomes sought do result in additional costs on the community or portions of it that are unjustifiable.

4 Identification of Options

Section 32(1)(b) of the RMA requires an examination of whether the provisions in the proposal the most appropriate way are to achieve the objectives, by: identifying other reasonably practicable options for achieving the objectives; assessing the efficiency and effectiveness of the provisions in achieving the objective; and summarising the reasons for deciding on the provisions. The following sections therefore identify other reasonably practicable options, assess the efficiency and effectiveness of each option, and provide an overall summary on why the proposed approach has been chosen.

The evaluation of provisions has been bundled because they are expected to work together to achieve the objectives.

For the avoidance of doubt, the evaluation pertains to the provisions for managing activities within the Versatile Soil Overlay; it does not assess the appropriateness of the use of an overlay instead of a separate rural zone for versatile soils, which is addressed in the Section 32 report for the rural zones chapter.

4.1 Option 1: Status Quo

This option involves a continuation of the operative District Plan provisions including the current policies and rules, and retention of the existing Rural 2 boundary as the boundary for the versatile soils overlay area.

The current boundary is not consistent with the Class I and II soils mapped by Environment Canterbury, whose mapping is based on more up-to-date information and is a more accurate reflection of soil classes. As noted earlier, under this option, there are less opportunities for smaller lot subdivision within the versatile soil's areas compared to the wider rural area. There are also some non-productive activities, and activities that disturb land which have a more stringent activity status in areas of versatile soil. There are no limits on site coverage.

4.2 Option 2: Updated mapping and framework targeted to effects on versatile soils

This option involves amending the boundary of the versatile soil overlay to align with Environment Canterbury's soil mapping. This option does not alter the activity status for various different activities from that of the underlying General rural zoning. Similarly, this option does not include a different activity status for earthworks or subdivision within the Versatile soils overlay, from those applying to the General rural zone. Where activities require resource consent either under the General rural zoning, or within the earthworks or subdivision rules, and are located within the versatile soils overlay, this option includes objective and policy guidance to guide consideration of applications, in terms of potential effects on the versatile soil resource. This is intended to ensure that the consideration of such applications is more clearly targeted to potential effects of an activity on versatile soils.

Under this option, a site coverage limit is also introduced for impervious surfaces within the versatile soil overlay to address the potential effects of site coverage on the versatile soils resource.

Strong policy direction is also included requiring that urban expansion into the overlay achieves specified criteria; and expansion of the Rural lifestyle zone into the overlay is minimised.

5 Evaluation of Options

5.1 Evaluation table

OPTION 1 *Status Quo:.*			
Benefits **Environmental**	**Economic**	**Social**	**Cultural**
Manages potential effects on versatile soils from non-productive activities. Environmental effects from contaminated land are generally expected to be managed through the NESCS process.	There may be savings in terms of time and cost as the Council and community are familiar with the provisions.	Continuation of current approach provides a level of familiarity and certainty to plan users	None identified.
Costs **Environmental**	**Economic**	**Social**	**Cultural**
Does not include direct measures to address potential effects on versatile soils from site coverage. Although environmental effects from use, development and subdivision of contaminated land will generally be managed through NESCS process, the lack of policy guidance may limit the extent to which they are managed to ensure achievement of the outcomes sought	The non-complying activity status applying to several activities does not reflect the potential effects those activities may have on versatile soils. This may result in increased costs associated with obtaining consent for activities that do not have adverse effects on the versatility of the soil to warrant the current level of intervention. The lack of policy direction regarding management of contaminated land could result in an ad hoc approach being taken to resource consent applications under the NESCS	None identified	The IMP contains broad direction relevant to managing contamination from hazardous substances. Although effects from use, development and subdivision of contaminated land will generally be managed through the NESCS process, the lack of policy guidance may limit the extent to which they are managed to ensure achievement of the outcomes sought in the IMP.

	without clear understanding of the matters to be addressed or outcomes sought. This may result in uncertainty and increased consenting costs.		
Efficiency	The policy and rule framework are reliant on managing potential effects on versatile soils through controls on non-productive activities. However, the activity-based approach is inefficient in that it imposes a non-complying threshold on various activities that may not compromise versatile soils. In terms of contaminated land, the lack of policy guidance could potentially result in inefficiencies in how consents are processed and assessed, because there is no clear and consistent guidance to apply.		
Effectiveness	The policy and rule framework are largely effective at capturing non-productive activities that may have adverse effects on versatile soils. However, in absence of any site coverage limits it may not be effective at addressing potential effects on versatile soils resulting from coverage of these soils. The lack of policy framework for managing contaminated land is likely to be less effective at achieving the outcomes sought.		
Strategic Direction(s)	Generally, the current framework provides for a range of primarily rural productive opportunities in the overlay area. However, the protection of versatile soils is not targeted to the effects of activities that may compromise these soils, instead being targeted to a wide range of non-productive activities.		
Overall Appropriateness of Option 1	This option is not the most appropriate way to achieve the preferred objectives, as it does not provide a policy framework to guide the assessment of resource consent applications that relate to contaminated or potentially contaminated land. It is also less effective and efficient than Option 2, in terms of ensuring versatile soils remain available for farming and are appropriately protected.		

OPTION 2 *Updated mapping and framework targeted to effects on versatile soils*			
Benefits **Environmental**	**Economic**	**Social**	**Cultural**
Manages potential effects on versatile soils through a more targeted framework. Environmental effects from contaminated land are generally managed through the NESCS process, with additional policy guidance ensuring activities involving contaminated land are managed to achieve the outcomes sought.	Relying on the activity status of the General rural zone for activities within the Versatile soil overlay is expected to remove unnecessary consenting costs for activities that do not have adverse effects on the versatility of the soil that warrant a higher level of intervention. Providing a policy framework for contaminated land is also expected to ensure a clear and targeted approach is taken to resource consent applications involving contaminated or potentially contaminated land. Costs may reduce for landowners/developers where, because of the updated mapping, land is removed from the overlay.	None identified	The policy guidance for contaminated land is considered to generally align with the direction in the IMP relating to managing contamination from hazardous substances.
Costs **Environmental**	**Economic**	**Social**	**Cultural**
None identified	The proposed approach introduces a new limit on site coverage. This will result in costs associated with resource consent for activities that breach the permitted threshold. Implementation of the policies relating to contaminated land may also impose costs on consent applicants, for example in relation to	None identified	None identified

	achieving best practise or remediation requirements. However, it is difficult to know if this would increase from the status quo. Costs may be incurred by landowners/developers where, because of the updated mapping, land is included in the overlay that is not currently zoned Rural 2. There are potential lost opportunity costs resulting from limitations on the expansion of urban or rural lifestyle zoning into land within the overlay, it is therefore intended that planning through Future Development Plans, allows for these costs to be weighed up in the location of future urban areas.		
Efficiency	The proposed approach introduces a new limit on site coverage. This will result in costs associated with resource consent for activities that breach the permitted threshold. Implementation of the policies relating to contaminated land may also impose costs on consent applicants, for example in relation to achieving best practise or remediation requirements. However, it is difficult to know if this would increase from the status quo. Costs may be incurred by landowners/developers where, because of the updated mapping, land is included in the overlay that is not currently zoned Rural 2. There are potential lost opportunity costs resulting from limitations on the expansion of urban or rural lifestyle zoning into land within the overlay, it is therefore intended that planning through Future Development Plans, allows for these costs to be weighed up in the location of future urban areas.		
Effectiveness	The proposed framework is consistent with providing for a range of primarily rural productive opportunities in the overlay area. It is also consistent with protecting versatile soils, by targeting the provisions to those activities that may affect versatile soils and providing clear policy guidance as to how effects are to be managed.		

Strategic Direction(s)	The proposed framework is consistent with providing for a range of primarily rural productive opportunities in the overlay area. It is also consistent with protecting versatile soils, by targeting the provisions to those activities that may affect versatile soils and providing clear policy guidance as to how effects are to be managed.
Overall Appropriateness of Option 2	This option is the most appropriate way to achieve the proposed objectives, considering its efficiency and effectiveness. This option provides a more targeted approach to managing the potential effects on versatile soils, to ensure that these soils remain available for farming, without imposing an unnecessarily high level of regulation. It also provides clear guidance on the management of contaminated land without duplicating or conflicting with the NESCS.

5.2 Risk of Acting or Not Acting

Where there is uncertain or insufficient information about the subject matter of the provisions, section 32(2)(c) requires an evaluation of the risk of acting or not acting in the way proposed. In this case it is considered that there is sufficient information to determine the appropriate approach to managing versatile soils and contaminated land within the proposed District Plan.

The area to which the Versatile soil overlay will apply is based on more up-to-date information obtained from ECan. It is considered more appropriate to use this more recent information, than the older information on which the current Rural 2 boundary is based. In terms of the proposed approach to managing areas of versatile soils, the operative District Plan already identifies and manages activities within areas of versatile soil. The proposed approach seeks to provide more specific guidance for consideration of applications that may affect the soil resource, and in doing so is more targeted. The proposal also includes additional controls on site coverage which do not apply at present. This reflects that coverage is generally understood to impact the use of versatile soils for productive purposes. Given the changes to the identification of the versatile soils overlay are based on more up-to-date mapping, and the tools to manage activities within this area are not a large shift, the risk of asking in the manner proposed is low.

It is acknowledged that there is uncertainty regarding the pNPSHPL. In its current form, the area to which the proposed Versatile soils overlay applies may not align with what the pNPSHPL would require. However, because the pNPSHPL directs that the mapping is undertaken by the regional council, there is less risk in continuing the apply the overlay to Class 1 and 2 soils, than in waiting for the gazettal of the NPS and for the regional council to undertake the mapping. Consideration of the extent to which the provisions give effect to any final NPSHPL will also be required. However, the proposed Versatile soil chapter is considered too broadly align with the direction in the pNPSHPL and therefore proceeding with the provisions proposed is low risk.

In terms of contaminated land, information about what land is contaminated is not held within the District Plan, and the process for how land is to be assessed and managed is set out in the NESCS. This is not changed by the proposed provisions, which instead provides a policy framework to guide consideration of resource consent applications involving contaminated land. This approach is consistent with that taken by other councils in their second generation plans and is considered low risk.

6 Preferred Option

This evaluation has been undertaken in accordance with Section 32 of the RMA to identify the need, benefits and costs and the appropriateness of the proposal having regard to its effectiveness and efficiency relative to other means in achieving the purpose of the RMA. The evaluation demonstrates that Option 2 is the most appropriate option as the proposed provisions:

- will achieve the relevant strategic objectives by protecting versatile soils from inappropriate activities.
- address the identified resource management issues by:
    - providing a framework that address the potential for activities to compromise the ongoing productive use of versatile soils.
    - providing a framework to guide applications involving contaminated land to ensure risks to the environment and to people's health and safety are appropriately managed.
    - are targeted towards providing an efficient and effective approach to achieving the proposed objectives.

Overall, it is considered that the set of preferred provisions is the most appropriate given that the benefits outweigh the costs, and they will be effective at achieving the outcomes sought.