

Proposed District Plan Change 69

Contaminated Land

1 November 2008

Wellington City District Plan



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ME HEKE KI PŌNEKE
WELLINGTON CITY COUNCIL

Wellington

PLAN CHANGE DOCUMENT

Proposed District Plan Change 69 – Contaminated Land Annotated Provisions to the Operative District Plan

The following pages make up the formal part of Proposed District Plan Change 69. The way in which the document is to be read is outlined in the key below. This describes how you can see what is being deleted and what is being added to the current Operative District Plan. The proposed changes **only affect Volume 1 (Objectives, Policies and Rules)**. No changes are proposed to Volume 2 (Design Guides) or Volume 3 (Planning Maps) as a result of this plan change.

Key to changes:

Abcdefghijklmnop Abcdefghijklmnop	Existing text (Operative District Plan) to be deleted
<u>Abcdefghijklmnop</u> <u>Abcdefghijklmnop</u>	Proposed new text

ADDITIONS TO AREA-BASED RULES

(1)

Add after the heading for each rules chapter [i.e. Chapters 5, 7, 9, 11B, 13, 15, 17, 19 ,but excluding Chapter 11A], and before the heading for permitted activities:

The following rules apply in the [XXX] Area and include the rules for Earthworks (Chapter 30), Contaminated Land (Chapter 32) and Heritage (Chapter 21) [except that where the following heritage rules in Chapter 21 apply the Area based rules (for signs or subdivision as the case may be) do not apply:

- The sign rules in Chapter 21D apply for all signs on sites where a listed heritage building or object is located (except for individual sites on which listed heritage buildings or objects are located that are also separate heritage areas).
- The subdivision rules in Chapter 21A apply for any subdivision of a site on which a listed heritage building or object is located.
- The subdivision rules in Chapter 21B apply for any subdivision of a site in a listed Heritage Area.]^{VAR7*}

(2)

Add after the heading for Chapter 11A and before the heading for permitted activities:

The following rules apply in the Airport Area and include the rules for Earthworks (Chapter 30) and Heritage (Chapter 21) [except that where the following heritage rules in Chapter 21 apply the Area based rules (for signs or subdivision as the case may be) do not apply:

- The sign rules in Chapter 21D apply for all signs on sites where a listed heritage building or object is located (except for individual sites on which listed heritage buildings or objects are located that are also separate heritage areas).
- The subdivision rules in Chapter 21A apply for any subdivision of a site on which a listed heritage building or object is located.
- The subdivision rules in Chapter 21B apply for any subdivision of a site in a listed Heritage Area.]^{VAR7*}

[]* This text is included as part of District Plan Variation 7 which is not operative as of the date of notification for this Proposed Plan Change.

1. THE DISTRICT PLAN

[.....]

1.4.1 Levels of Government

The Resource Management Act defines different roles for central, regional and local government. The District Plan shall not be inconsistent with:

- any New Zealand Coastal Policy Statement
- any other national policy statement
- the Regional Policy Statement
- any regional plan in regard to any matter of regional significance for which the Regional Council has primary responsibility under Part IV of the Resource Management Act 1991.



Central Government

Central government is responsible for determining national resource management policies and monitoring the implementation of the Resource Management Act. It can issue National Policy Statements of policy on certain matters of national significance that are relevant to achieving the purpose of the Resource Management Act. The New Zealand Coastal Policy Statement is one example of this.

Regional Government

Wellington Regional Council has responsibility for developing regional resource management policy. The Regional Council's resource management functions are determined by Section 30 and the Second Schedule of the Resource Management Act 1991. It must prepare a Regional Policy Statement and a Regional Coastal Plan. It can formulate other regional plans for specific resource management issues, if that is necessary. The Council's responsibilities include the control of discharges to land, water, and air and the identification and monitoring of contaminated land within the Region. The Council shares some of its coastal marine area management responsibilities with the Minister of Conservation.

Territorial Government

Wellington City Council has responsibility for managing the environmental effects of land use in the Wellington District. In preparing the District Plan, Council has had regard to national and regional resource management policies. In particular, Council has considered how the Regional Policy Statement, the Regional Coastal Plan and other Regional Plans influence the District Plan and has aimed to achieve consistency of approach.

[.....]

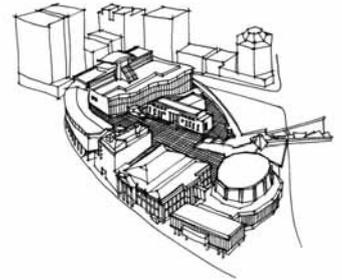
S5 Providing Areas to Facilitate Economic Growth and Development

The central city area and other centres within the suburbs provide a base from which business and a wide range of other commercial and related amenities can operate with a minimum of regulation. The areas are contained, to encourage the efficient use of existing facilities and to protect people living nearby from adverse environmental effects.



S6 Maintaining and Enhancing the Quality of the Built Environment

The quality of the built environment contributes to the way people relate to and feel about their city. Controls on urban design implications of new building are therefore central to improving the quality of urban environment. It is also important to protect areas of special character and heritage conservation, and to improve accessibility to, ease of use, and enjoyment of the public spaces, amenities and facilities provided by the built environment.



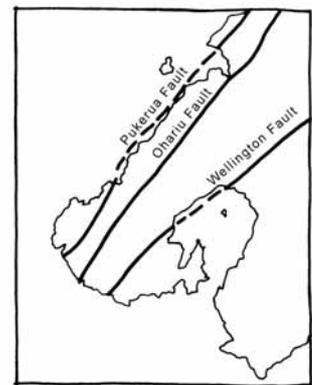
S7 Maintaining and Enhancing the Quality of the Natural Environment

The maintenance of the life-supporting capacity of the environment is essential and requires safeguards for land, air and water from pollution and contamination. Also important is the protection and conservation of remaining natural habitats and ecosystems as part of the city's natural heritage.



S8 Reducing Risk

Wellington experiences earthquake activity and other natural hazards, including flooding and landslips. This requires measures to reduce risks to acceptable levels. This also applies to technological hazards such as the use, storage or transportation of hazardous substances and the use, development and subdivision of contaminated and potentially contaminated land.



1.6.3 District Plan Objectives

The significant resource issues identified above have been used to define the objectives that identify the direction that Council intends to take in promoting the sustainable management of natural and physical resources in the City.

The objectives provide a link between the resource management issues and the particular policies and rules in the Plan. Ultimately, they allow the rules to be traced back to their role under the Act of promoting the sustainable management of natural and physical resources.

The objectives are expressed for each area of the City in the relevant Chapters of the Plan. These specific objectives shall be applied in the implementation of the Plan.

The objectives listed below are a summary of the objectives which have been applied to each area of the City and are listed here for information purposes only.

The objectives are:

- To maintain and enhance the amenity values of the City.
- To maintain and enhance the physical character of Wellington and in particular of identified areas of special streetscape or townscape character.
- To maintain and enhance the quality of the City's coastal environment.
- To promote the efficient use of natural and physical resources within Wellington.
- To encourage most new residential development to take place within existing developed parts of the City, and ensure that new subdivisions, where developed, are on suitable sites and are well designed and adequately serviced.
- To avoid or mitigate, where possible, the adverse effects of both natural and technological hazards on people, property and the environment.
- To maintain and enhance the quality of the City's coastline.
- To maintain and enhance natural features (including landscapes and ecosystems) that contribute to Wellington's natural environment.
- To prevent or mitigate any adverse effects of the storage, use, disposal, or transportation of hazardous substances, including waste disposal, and to manage contaminated and potentially contaminated land.
- To improve standards of accessibility, including the accessibility and ease of use of both public spaces and housing for older people and all others with mobility restrictions, and the efficient, convenient and safe movement of people and goods within Wellington City.
- To promote the development of a safe and healthy city.
- To facilitate the exercise of tino rangatiratanga and kaitiakitanga by Wellington's tangata whenua.
- To maintain and enhance the City's heritage, to ensure continuity with Wellington's past in the development of the City.
- To maintain and enhance the open spaces of Wellington City.
- To maintain and enhance high-value habitats and ecosystems by protecting them from modification and loss.
- To provide for the efficient development and maintenance of utility networks throughout the city while avoiding, remedying or mitigating any adverse effects of activities on the environment.

[.....]

The following definitions are in addition to those contained within the Act.

3.10 Definitions

[.....]

~~**CONTAMINATED SITE:** means a site at which hazardous substances occur at concentrations above background levels and where assessment indicates it poses or is likely to pose an immediate or long term hazard to human health or to the environment.~~

CONTAMINATED LAND: has the same meaning as in the Resource Management Act 1991 and is limited to that part of a site(s) that is identified as being contaminated on Wellington Regional Council's Selected Land Use Register, either as:

- Contamination confirmed (report provided)
- Contamination acceptable / managed / remediated

Contaminated land does not include land identified on the Wellington Regional Council's Selected Land Use Register as:

- Unverified HAIL (Hazardous Activities and Industries List)
- No identified contamination
- Entered onto register in error

CONTAMINATION: means hazardous substances present in or on land that could result in the land being classified as contaminated or potentially contaminated land.

POTENTIALLY CONTAMINATED LAND: means land (on all or part of a site(s)) that has been used for an activity that is considered likely to cause land contamination as a result of previous or current hazardous substance use, storage or disposal and for which there is insufficient information to conclude whether it is contaminated or not. It may include land uses as identified in the Ministry for the Environment's hazardous activities and industries list (HAIL) and includes land that is classified on the Wellington Regional Council's Selected Land Use Register Verified HAIL.

REMEDIAION OF CONTAMINATED AND POTENTIALLY CONTAMINATED LAND: means the process of removing, dispersing, destroying, reducing, mitigating or containing the contamination of any land, or eliminating or reducing the hazard arising from the contamination of any land.

USE, REDEVELOPMENT AND SUBDIVISION OF CONTAMINATED OR POTENTIALLY CONTAMINATED LAND: The use, redevelopment and subdivision of contaminated and potentially contaminated land excludes:

- any ongoing activities or occupation of the land for the same activity; and
- internal and external additions and alterations to existing buildings that occur above ground level and do not disturb the ground.

4.2 Residential Objectives and Policies

[.....]

OBJECTIVE

4.2.8 To prevent or mitigate any adverse effects of the storage, use, disposal, or transportation of hazardous substances, including waste disposal, and to manage existing contaminated sites.

POLICIES

To achieve this objective, Council will:

[.....]

~~4.2.8.5 Co-operate with the Regional Council in compiling a database of all contaminated sites in the city.~~

~~4.2.8.6 Control activities on any contaminated site.~~

~~4.2.8.7 Encourage the restoration of any contaminated site.~~

METHODS

- ~~• Building Act~~
- ~~• Wellington Regional Council ANZECC Site Use Database~~
- ~~• Title Notification~~
- ~~• Land Information Memorandum / Project Information Memorandum~~
- ~~• Rules~~
- ~~• Other mechanisms (Regional Discharges To Land Plan)~~

~~Because contaminated sites can damage human and ecological health, Council believes that District Plan restrictions are necessary. Council aims to identify such sites and to restrict activities until the contamination is controlled or removed. The extent of controls is likely to vary depending on the nature of the contamination and the proposed future use. The former landfill in Seatoun (refer Appendix 15, Chapter 5) is an example of an area mapped Outer Residential which requires specific management should development occur.~~

~~The environmental result will be the recognition and restoration of contaminated sites.~~

[.....]

Chapter 5. Residential Area Rules

Guide to Rules

NOTE: The following table is intended as a guide only and does not form part of the District Plan. Refer to specified rules for detailed requirements.

P refers to Permitted Activities, C to Controlled Activities, DR to Discretionary Activities (Restricted) and DU to Discretionary Activities (Unrestricted).

Uses/Activities	Rule	P	C	DR	DU
Residential activities subject to conditions	5.1.1	●			
Residential activities not complying with conditions for Permitted Activities	5.3.1			●	
Work from home activities subject to conditions	5.1.2	●			
Work from home activities not complying with conditions for Permitted Activities	5.3.2			●	
Non-residential activities not specifically provided for as Permitted or Controlled Activities	5.4.1				●
Non-residential activities in existing non-residential buildings that contain a shopfront display window adjacent to the footpath	5.2.2		●		
Early Childhood Centres	5.2.1		●		
The creation of open land for recreation or amenity purposes	5.1.5	●			
Temporary activities	5.1.6	●			
Upgrade and maintenance of existing formed roads and accessways	5.1.7	●			
Earthworks (small scale) subject to conditions	5.1.9	●			
Earthworks not complying with conditions for Permitted Activities	5.3.9			●	
Storage, use, etc of hazardous substances, except in a Hazard Area, subject to conditions	5.1.10	●			
Storage, use, etc of hazardous substances not complying with conditions for Permitted Activities	5.4.3				●
Any activity, use etc on a contaminated site	5.4.4				●

Buildings	Rule	P	C	DR	DU
Residential buildings, accessory buildings and residential structures subject to conditions	5.1.3	●			
Internal alterations, minor additions to existing residential buildings and new accessory buildings in the Tawa Hazard (Flooding) Area	5.1.12	●			
Construction, alteration of, and addition to residential buildings, including accessory buildings in the Tawa Hazard (Flooding) Area	5.2.6		●		
Residential buildings, accessory buildings and residential structures in character areas	5.2.3		●		
Residential buildings, accessory buildings and residential structures not complying with conditions for Permitted Activities	5.3.3			●	
Residential buildings in a Hazard (Fault Line) Area not complying with conditions for Permitted Activities	5.3.6			●	
Residential buildings within 30m of high voltage transmission lines	5.3.7			●	
Two residential units in part of the Inner Residential Area shown on Appendix 8	5.2.4		●		
Multi-unit residential development - 3 or more household units on a site	5.3.4			●	
Two or more household units on a site in the area shown in Appendix 9 (Thorndon and Mt Victoria), and in the Thorndon Character Area, except in a Hazard (Fault Line) Area	5.3.10			●	
Construction, alteration of, and addition to residential buildings, including accessory buildings in the Tawa Hazard (Flooding) Area	5.3.12			●	
[Construction, alteration of, and addition to residential buildings, including accessory buildings in the Oriental Bay Height Area] ¹	5.3.13			●	
Multi-unit residential development - 3 or more household units on any site inside the Airmoise Boundary (Map 35)	5.4.6				●
Two or more household units on any part of a site in the Hazard (Fault Line) Area	5.4.8				●
Accessory buildings and residential structures including fences and walls, on a legal road	5.3.5			●	
The demolition of any building in Thorndon or Mt Victoria (shown in Appendix 9), excluding accessory buildings, constructed before 1930, or for which approval for construction was granted before 1930	5.3.11			●	
Demolition or removal of buildings except heritage items, pre 1930s buildings in the Thorndon Character Area and buildings in Mt Victoria and Thorndon that are restricted by rule 5.3.11	5.1.4	●			
Demolition or removal of pre 1930s buildings in the Thorndon Character Area	5.4.2				●
Non-residential activities, non-residential buildings and structures not specifically provided for as Permitted or Controlled Activities	5.4.1				●
Any building on a contaminated site	5.4.4				●
Signs subject to conditions	5.1.8	●			
Signs not complying with conditions for Permitted Activities	5.3.8			●	

Subdivision	Rule	P	C	DR	DU
Subdivision around existing houses subject to conditions (excluding company lease, cross lease and unit title subdivision)	5.1.11	●			
Subdivision for 5 or less allotments not complying with conditions for Permitted Activities; and company lease, cross lease and unit title subdivision	5.2.5		●		
Subdivision not being a Permitted or Controlled Activity	5.4.5				●
Any subdivision on the site of the former landfill in Seatoun	5.4.7				●
Heritage	Rule	P	C	DR	DU
Activities affecting listed heritage items	21.0	●	●		●
Utilities	Rule	P	C	DR	DU
Buildings, structures and other utility activities	21.0	●	●	●	●
<u>Contaminated and potentially contaminated land</u>	<u>Rule</u>	<u>P</u>	<u>C</u>	<u>DR</u>	<u>DU</u>
<u>Site investigations on any contaminated land or potentially contaminated land to determine whether the land is contaminated, and the nature and extent of that contamination</u>	<u>32.1.1</u>	● —			
<u>The use, redevelopment or subdivision of any potentially contaminated land that has been confirmed as not being contaminated through site investigations</u>	<u>32.1.2</u>	● —			
<u>The subdivision, use, or activity (including remediation or redevelopment) of any contaminated or potentially contaminated land.</u>	<u>32.2.1</u>			● —	

[.....]

5.4.4 Notwithstanding any rule to the contrary, any activity, use, or construction, alteration of, and addition to buildings or structures, on a contaminated site is a Discretionary Activity (Unrestricted).

Standards and Terms

~~[All the conditions in rule 5.1.1 and rule 5.1.3 must be met unless consent is concurrently sought and granted for the condition(s) not met.]³~~

Assessment Criteria

~~In determining whether to grant consent and what conditions, if any, to impose, Council will have regard to the following criteria:~~

- ~~5.4.4.1 The nature of the contamination and the extent to which the occupants of the site, the community and the environment will be exposed to the contaminants.~~
- ~~5.4.4.2 The proposed approach to, and timing of, the future decontamination of the site.~~
- ~~5.4.4.3 The management of the decontamination risk or risk due to any residual contamination remaining on the site.~~
- ~~5.4.4.4 Whether issues relating to the ongoing management of any residual contamination on the site are addressed (e.g. risks associated with installation and maintenance of underground services, risks associated with earthworking and soil disturbance, and compliance with management regimes).~~

~~Activities on contaminated sites are controlled for two reasons. First, to prevent the contamination adversely affecting occupiers of the site, the community or the environment, and second, to ensure that such sites are cleaned up. The former landfill in Seatoun (refer Appendix 15) is an example of an area which, while mapped Outer Residential, requires specific management should development occur. Contaminated sites will become more common in Wellington as they are discovered through the environmental monitoring procedures of both the City and Regional Councils.~~

~~Although the use of contaminated sites is discretionary, this will not be used as a barrier to the decontamination of the site. Council is eager to see such sites cleaned up and will facilitate this process to the best of its ability. Council will seek decontamination in accordance with ANZECC “Guidelines for the Assessment and Management of Contaminated Sites” or similar.~~

Rule 5.4.4 deleted as a result of District Plan Change 69.

[.....]

5.4.7 On the site of the former landfill in Seatoun (refer Appendix 15) any subdivision is a Discretionary Activity (Unrestricted).

Standards and Terms

Any proposal must comply with the standards and terms in Rule 5.4.5.

Assessment Criteria

In determining whether to grant consent and what conditions, if any, to impose, Council will have regard to the criteria in Rule 5.4.5 and Rule 32.2 of the District Plan and the following additional assessment criteria:

- 5.4.7.1 Whether any subdivision can be designed to achieve integrated future management of the potential effects of the contaminated site.
- 5.4.7.2 The balance between the remediation measures proposed and the ongoing site management.
- 5.4.7.3 Whether any land stability issues related to site development are satisfactorily addressed.

The site of the former landfill in Seatoun has been assessed and identified as a contaminated site. Council seeks to ensure that any subdivision and development will achieve long term integrated management and mitigation of the contamination. Council recognises that there are a range of development options which may be suitable for the site. The site has been mapped Outer Residential with provisions to ensure that any development will not expose occupants of the site, the community or the environment to contaminants. Restrictions on subdivision are a means to ensure that the land ownership patterns are compatible with ongoing site management requirements.

There is a restriction on building any structures within 5 metres of the landward side of the Open Space B or Outer Residential boundary at the northern end of the coastal cliffs. This is shown on appendix 15. It is intended that this restriction be given effect to through conditions of consent and recorded on the affected titles on any subdivision of the land. The reason for the restriction is to maintain the area at the northern end of the coastal cliffs (in the vicinity of the coastal strip) free of structures to protect the coastal values of the area, maintain linkages between the

coastal Open Space B area and the hillside Open Space B area, and protect the visual values of the coastal cliffs.

[.....]

[5.4.9 Within the land shown in Appendix 24 (16-50 Rhine Street, Island Bay):

In areas denoted (A) any subdivision, use or activity, including the construction, alteration of, and addition to buildings or structures, that is not a permitted activity, is a Discretionary Activity (Unrestricted). The exception to this rule is that Rule 5.1.9 relating to earthworks shall not apply and all earthworks will be assessed as a Discretionary Activity (Unrestricted).

In areas denoted (B) and (C) any subdivision, use or activity including any earthworks is a Discretionary Activity (Unrestricted).

Standards and Terms

For areas denoted (B) in Appendix 24 a geotechnical report and engineering design report shall be provided in respect of any proposed subdivision, building or infrastructure development.

In areas denoted (B) and (C) Rule 5.1.3.4.2 shall apply unless Discretionary Activity (Unrestricted) consent is concurrently sought and granted.

Assessment Criteria

In determining whether to grant consent and what conditions, if any, to impose, Council will have regard to the following criteria:

- 5.4.9.1 The extent to which filled areas and any building proposals on filled areas denoted as Area (B) in Appendix 24 can be engineered or designed to achieve development that is safe and secure.
- 5.4.9.2 The extent to which new earthworks are necessary to provide for the remediation or rehabilitation of the land.
- 5.4.9.3 Whether contamination issues related to the land are adequately addressed by the proposal. The assessment criteria under Rule 5.4.4 32.3.1.6 shall apply if relevant.
- 5.4.9.4 Siting – whilst the siting of new buildings on all of the land should be carefully considered, particular attention should be given to any potential adverse effects on visual amenity and conservation values of proposed development, including earthworks, on the elevated south-western area and on the surrounding hillsides and ridges, where it may extend above or penetrate a horizontal height plane at a height of 70 metres above mean sea level. Where any such development is proposed a visual impact assessment is required.
- 5.4.9.5 The extent to which any proposal supports the comprehensive and integrated development of the land, taking into account its location between an existing and well established residential area and Conservation Site and Open Space land. Consideration should be given to how the scale, density and design of development on the site could

avoid, remedy or mitigate any adverse effects on the environment, including existing residential amenity values, beyond the boundaries of the site.

- 5.4.9.6 Design and external appearance - proposed buildings should be sympathetic to existing patterns of residential development in the vicinity of the land, as well as the adjoining Conservation Site and Open Space environments.
- 5.4.9.7 When relevant, the Design Guide for Multi-unit Developments.
- 5.4.9.8 Site landscaping - particular consideration should be given in any planting and landscaping plan to the extent to which buildings can be integrated into the surrounding area through the use of planting, landscaping and visual screening.
- 5.4.9.9 Whether traffic, parking and site access issues are adequately addressed through the design of the proposal, including adjacent street amenity (kerb, channel, footpath and berm) and whether any off-site effects on the surrounding roading and footpath network can be avoided, remedied or mitigated.
- 5.4.9.10 In addition to the above where relevant, in the case of subdivision:
- the requirements of section 106 of the Act
 - the extent of compliance with the relevant parts of the Subdivision Design Guide and the Code of Practice for Land Development.

Explanation

These site-specific provisions reflect a number of particular resource management issues associated with the land.

Parts of the land have been highly modified, with a long history of land filling and earthworks. It is likely that these areas will not be suitable for any development that involves building or infrastructure services and extensive testing and possible re-engineering will therefore be required to assess the suitability of ground conditions for any development in these areas. For this reason all proposed development on filled areas will require a Discretionary Activity (Unrestricted) application. A specific provision has been imposed requiring geotechnical and engineering design reports.

The history of landfilling has also resulted in the land being identified as a potentially 'contaminated site'. This is a matter that will also require extensive investigation before any development occurs.

Because of land stability and contamination issues arising in the past the Council is particularly concerning to have control over any proposed new earthworks on the land.

Additional requirements have been imposed to limit any new development including earthworks that would extend above a horizontal line set at 70 metres above mean sea level. This is to protect the landscape and amenity and conservation values of the hillside and ridges surrounding the land.

On areas of original ground where development is appropriate a high level of control has also been maintained to ensure these and other issues, such as effects on visual and amenity values and roading can be assessed. Applications will be encouraged where consideration has been given to the integrated development of the land, rather than a series of piecemeal development proposals. The Council will be particularly concerned that any proposed development adequately addresses the relationship of the land to adjoining Residential, Open Space and Conservation Site environments.]^{PC9}

6.2 Suburban Centre Objectives and Policies

OBJECTIVE

6.2.7 To prevent or mitigate any adverse effects of the storage, use, disposal, or transportation of hazardous substances, including waste disposal, and formation of contaminated sites.

POLICIES

To achieve this objective, Council will:

[.....]

~~6.2.7.5 Co-operate with the Regional Council in compiling a database of all contaminated sites in the city.~~

~~6.2.7.6 Control activities on any contaminated site.~~

~~6.2.7.7 Encourage the restoration of contaminated sites.~~

METHODS

- ~~• Rules~~
- ~~• Other mechanisms (Regional Discharges to Land Plan)~~

~~Because contaminated sites can damage human and ecological health, Council believes that District Plan restrictions are necessary. Council aims to identify such sites and to restrict activities on them until the contamination is removed and its source controlled.~~

~~The environmental result will be the recognition and restoration of contaminated sites.~~

[.....]

Chapter 7. Suburban Centre Rules

Guide to Rules

NOTE: The following table is intended as a guide only and does not form part of the District Plan. Refer to specified rules for detailed requirements.

P refers to Permitted Activities, C to Controlled Activities, DR to Discretionary Activities (Restricted) and DU to Discretionary Activities (Unrestricted).

Uses/Activities	Rule	P	C	DR	DU
Any activity (with some exceptions) subject to conditions	7.1.1	●			
Activities not complying with conditions	7.3.1			●	
Any activity or building involving the provision of more than 120 parking spaces	7.3.4			●	
Quarrying - Kiwi Point [or Kiwi Point Quarry Extension Area (Ngauranga Gorge)] ¹ subject to conditions	7.1.3	●			
[Quarrying - Kiwi Point or Kiwi Point Quarry Extension Area (Ngauranga Gorge) not complying with conditions] ²	7.3.10			●	
Critical facilities in a Hazard Area	7.3.6			●	
Any use of a contaminated site	7.4.3				●
Any activity listed in Section 3.5.2.2 (hazardous substances)	7.2.4		●		
Earthworks Tawa Hazard (Flooding) Area	7.2.5		●		
Earthworks Tawa Hazard (Flooding) Area	7.3.7			●	
Earthworks Takapu Hazard (Flooding) Area	7.3.8			●	
Earthworks Takapu Hazard (Flooding) Tawa Hazard (Flooding) Area	7.4.7				●
Helicopter landing areas	7.4.6				●
Buildings	Rule	P	C	DR	DU
Construction of, alteration of and addition to buildings and structures subject to conditions	7.1.2	●			
Construction of three or more residential dwellings at ground level	7.3.5			●	
Construction of new residential buildings within the airnoise boundary	7.4.4				●
Construction of, alteration of and addition to buildings and structures in the Thorndon Character Area or the Newtown Suburban Centre Character Area	7.2.1		●		
Construction, alteration of, and addition to buildings, including accessory buildings in the Tawa Hazard (Flooding) Area	7.2.5		●		
Construction, alteration of, and addition to buildings, including accessory buildings in the Tawa Hazard (Flooding) Area	7.3.7			●	
Construction, alteration of, and addition to buildings, including accessory buildings in the Takapua Hazard (Flooding) Area	7.3.8			●	
Construction, alteration and addition to buildings or structures in the Hazard (Fault Line) Area	7.3.9			●	
Construction, alteration of, and addition to buildings, including accessory buildings, less than 5 metres from Porirua Stream within the Tawa Hazard (Flooding) Area, and the Takapua Stream within the Takapua Hazard (Flooding) Area	7.4.7				●
Construction, alteration of and addition to buildings and structures not complying with conditions or standards and terms	7.3.2			●	

Pedestrian bridges, buildings and structures over roads	7.4.1				●
Demolition or removal of pre-1930s buildings in the Thorndon Character Area	7.4.2				●
Construction of, alteration of, and addition to buildings and structures in the Shelly Bay Suburban Centre subject to conditions	7.2.2		●		
Construction of, alteration of, and addition to buildings and structures in the Shelly Bay Suburban Centre that do not meet conditions	7.3.3			●	
Subdivision	Rule	P	C	DR	DU
Subdivision except for company lease, cross lease and unit title subdivision, subject to conditions	7.1.4	●			
Company lease, cross lease and unit title subdivision	7.2.3		●		
Subdivision not being Permitted or Controlled Activities	7.4.5				●
Heritage	Rule	P	C	DR	DU
Activities affecting heritage items	21.0	●	●		●
Utilities	Rule	P	C	DR	DU
Utilities	23.0	●	●	●	●
Contaminated and potentially contaminated land	Rule	P	C	DR	DU
<u>Site investigations on any contaminated land or potentially contaminated land to determine whether the land is contaminated, and the nature and extent of that contamination</u>	<u>32.1.1</u>	● —			
<u>The use, redevelopment or subdivision of any potentially contaminated land that has been confirmed as not being contaminated through site investigations</u>	<u>32.1.2</u>	● —			
<u>The subdivision, use, or activity (including remediation or redevelopment) of any contaminated or potentially contaminated land.</u>	<u>32.2.1</u>			● —	

[.....]

7.4.3 Any use of a contaminated site is a Discretionary Activity (Unrestricted).

Assessment Criteria

In determining whether to grant consent and what conditions, if any, to impose, Council will have regard to the following criteria:

- ~~7.4.3.1 The nature of the contamination and the extent to which the community and the environment will be exposed to the contaminants.~~
- ~~7.4.3.2 The proposed approach to, and timing of, the future decontamination of the site or the management of the decontamination risk.~~

~~Activities on contaminated sites are controlled for two reasons. Firstly, to prevent the contamination from adversely affecting occupiers of the site, or processes which could take place there, and secondly, to ensure that such sites are cleaned up. Contaminated sites will become more common in Wellington as they are discovered through the environmental monitoring procedures of both the City and Regional Councils.~~

~~Although the use of contaminated sites is discretionary, this will not be used as a barrier to the decontamination of the site. Council is eager to see such sites cleaned up and will facilitate this process to the best of its ability. Council will seek~~

~~decontamination in accordance with ANZECC "Guidelines for the Assessment and Management of Contaminated Sites" or similar.~~

[.....]

8.2 Institutional Precincts Objectives and Policies

[.....]

OBJECTIVE

8.2.6 To prevent or mitigate any adverse effects of the storage, use, disposal, or transportation of hazardous substances, including waste disposal, and formation of contaminated sites.

POLICIES

To achieve this objective, Council will:

[.....]

~~8.2.6.4 Co-operate with the Regional Council in compiling a database of all contaminated sites in the city.~~

~~8.2.6.5 Control activities on any contaminated site.~~

~~8.2.6.6 Encourage the restoration of contaminated sites.~~

METHODS

- ~~• Rules~~
- ~~• Other mechanisms (Regional Discharges to Land Plan)~~

~~Contaminated sites can have significant effects on human and ecological health, and for this reason Council believes that District Plan restrictions are necessary. Council aims to identify such sites and to restrict activities on them until the contamination is controlled and removed.~~

~~The environmental result will be the recognition and restoration of contaminated sites.~~

[.....]

Chapter 9: Institutional Precinct Rules

Guide to Rules

NOTE: The following table is intended as a guide only and does not form part of the District Plan. Refer to specified rules for detailed requirements.

P refers to Permitted Activities, C to Controlled Activities, DR to Discretionary Activities (Restricted) and DU to Discretionary Activities (Unrestricted).

Uses/Activities	Rule	P	C	DR	DU
Activities related to the primary function of the Precinct subject to conditions	9.1.1	●			
Activities related to the primary function of the Precinct not complying with conditions for Permitted Activities	9.3.1			●	
Helicopter landing areas (Clinical Services Block Wellington Hospital)	9.1.3	●			
Upgrade and maintenance of existing formed roads and accessways	9.1.4	●			
Any use of a contaminated site	9.4.3				●
Activities not provided for as Permitted or Controlled Activities	9.4.1				●
Buildings	Rule	P	C	DR	DU
Construction, or alteration of, and addition to buildings and structures	9.2.1		●		
Pedestrian bridges and other structures/buildings above or over roads	9.4.2				●
Subdivision	Rule	P	C	DR	DU
Subdivision except company lease, cross lease and unit title subdivision, subject to conditions	9.1.2	●			
Company lease, cross lease and unit title subdivision	9.2.2		●		
Subdivision not being a Permitted or Controlled Activity	9.4.4				●
Heritage	Rule	P	C	DR	DU
Activities affecting heritage items	21.0	●	●		●
Utilities	Rule	P	C	DR	DU
Utilities	23.0	●	●	●	●
<u>Contaminated and potentially contaminated land</u>	<u>Rule</u>	<u>P</u>	<u>C</u>	<u>DR</u>	<u>DU</u>
<u>Site investigations on any contaminated land or potentially contaminated land to determine whether the land is contaminated, and the nature and extent of that contamination</u>	<u>32.1.1</u>	● —			
<u>The use, redevelopment or subdivision of any potentially contaminated land that has been confirmed as not being contaminated through site investigations</u>	<u>32.1.2</u>	● —			
<u>The subdivision, use, or activity (including remediation or redevelopment) of any contaminated or potentially contaminated land.</u>	<u>32.2.1</u>			● —	

[.....]

9.4.3 Any use of a contaminated site is a Discretionary Activity (Unrestricted).

Assessment Criteria

~~In determining whether to grant consent and what conditions, if any, to impose, Council will have regard to the following criteria:~~

~~9.4.3.1 — The nature of the contamination and the extent to which the community and the environment will be exposed to the contaminants.~~

~~9.4.3.2 — The proposed approach to, and timing of, the future decontamination of the site or the management of the decontamination risk.~~

~~Activities on contaminated sites are controlled for two reasons. Firstly, to prevent the contamination from adversely affecting occupiers of the site, or processes which could take place there, and secondly, to ensure that such sites are cleaned up. Contaminated sites will become more common in Wellington as they are discovered through the environmental monitoring procedures of both the City and Regional Councils.~~

~~Although the use of contaminated sites is Discretionary, this will not be used as a barrier to the decontamination of the site. Council is eager to see such sites cleaned up and will facilitate this process to the best of its ability. Council will seek decontamination in accordance with ANZECC "Guidelines for the Assessment and Management of Contaminated Sites" or similar.~~

[.....]

16.5 Open Space Objectives and Policies

[.....]

OBJECTIVE

16.5.3 To prevent or mitigate any adverse effects of the storage, use, disposal, or transportation of hazardous substances, including waste disposal, and formation of contaminated sites.

[.....]

Chapter 17. Open Space Rules

Guide to Rules

NOTE: The following table is intended as a guide only and does not form part of the District Plan. Refer to specified rules for detailed requirements.

P refers to Permitted Activities, C to Controlled Activities, DR to Discretionary Activities (Restricted) and DU to Discretionary Activities (Unrestricted).

Uses/Activities	Rule	P	C	DR	Article U
Recreation activities subject to conditions	17.1.1	●			
Recreation activities not complying with conditions for Permitted Activities	17.2.1			●	
Activities in Open Space A not being Permitted Activities	17.3.1				●
Recreation and other activities in Open Space B and Open Space C not being Permitted Activities	17.3.2				●
Planting and rural activities (excluding factory farming and goat farming) in Open Space A and Open Space B	17.1.7	●			
Planting in Open Space C	17.1.8	●			
Modification, damage, removal or destruction of indigenous vegetation in Open Space B and Open Space C subject to conditions	17.1.15	●			
Modification, damage, removal or destruction of indigenous vegetation in Open Space A	17.1.16	●			
Modification, damage, removal or destruction of indigenous vegetation not being a Permitted Activity	17.2.4			●	
Temporary activities and uses	17.1.2	●			
Earthworks (small scale) subject to conditions	17.1.6	●			
Earthworks not being a Permitted Activity	17.3.3				●

Carparking and access drives in Open Space A subject to conditions	17.1.9	●			
Carparking and access drives in Open Space B subject to conditions	17.1.11	●			
Carparking and access drives in Open Space C subject to conditions	17.1.12	●			
Concerts at the Basin Reserve subject to conditions	17.1.3	●			
Upgrade and maintenance of formed roads and accessways	17.1.14	●			
Storage, use or handling of hazardous substances, except in a Hazard Area, subject to conditions	17.1.13	●			
Storage, use, handling or disposal of hazardous substances not complying with the conditions for Permitted Activities	17.3.5				●
Buildings	Rule	P	C	DR	DU
Buildings and structures for the purpose of recreation activities in Open Space A subject to conditions	17.1.9	●			
Buildings and structures for recreation purposes less than 30m ² in area and 4m in height in Open Space B and Open Space C subject to conditions	17.1.10	●			
Buildings and structures in Open Space A for the purpose of recreation that do not comply with conditions	17.2.3			●	
Buildings and structures in Open Space B and Open Space C not being Permitted Activities	17.3.2				●
Demolition or removal of buildings and structures except listed heritage items	17.1.5	●			
Structures in Open Space A not being Permitted Activities	17.3.1				●
Signs subject to conditions	17.1.4	●			
Signs not complying with conditions for Permitted Activities	17.2.2			●	
Subdivision	Rule	P	C	DR	DU
Any subdivision	17.3.4				●
Heritage	Rule	P	C	DR	DU
Activity affecting listed heritage items	21.0	●	●		●
Utilities	Rule	P	C	DR	DU
Utilities	23.0	●	●	●	●
Contaminated and potentially contaminated land	Rule	P	C	DR	DU
<u>Site investigations on any contaminated land or potentially contaminated land to determine whether the land is contaminated, and the nature and extent of that contamination</u>	<u>32.1.1</u>	● —			
<u>The use, redevelopment or subdivision of any potentially contaminated land that has been confirmed as not being contaminated through site investigations</u>	<u>32.1.2</u>	● —			
<u>The subdivision, use, or activity (including remediation or redevelopment) of any contaminated or potentially contaminated land.</u>	<u>32.2.1</u>			● —	

[.....]

31. CONTAMINATED LAND

31.1 Introduction

Activities occurring on contaminated land pose risks to human health and safety and the wider environment. A range of industries and activities have, in the past, contaminated areas of land within Wellington City. While much of this land has been identified by the Regional Council and the City Council, there remain areas of land within Wellington City that may potentially be contaminated due to past practices and activities. This unidentified contaminated land can pose a greater risk to human health and the environment, because of its unknown nature and location. Potentially contaminated land ranges from former landfill and gasworks sites, to oil terminals and areas contaminated from the storage of hazardous substances. In some cases, the contamination is not confined to the site at which the activity took place.

Wellington City Council uses Wellington Regional Council's Selected Land Use Register and the Ministry for the Environment's hazardous activities and industries list (HAIL). Wellington Regional Council's Selected Land Use Register contains six difference classifications relating to contaminated land:

- Verified HAIL
- Unverified HAIL
- Contamination confirmed
- Contamination acceptable / managed / remediated
- No identified contamination
- Entered into database in error.

The HAIL is a compilation of activities and industries that are considered likely to cause land contamination as a result of the use, storage or disposal of hazardous substances and therefore provides a guide for identifying potentially contaminated land.

The remediation, use, redevelopment and subdivision of contaminated land, particularly when soil is disturbed, can expose people, particularly construction workers, and the environment to increased risk of exposure to contaminants. Both remediation and the development of land can mobilise previously contained contaminants, discharge contaminants on or off site, and result in the off site movement of contaminated soils to inappropriate disposal sites. In some cases, soil disturbance may complete previously incomplete exposure pathways and lead to contamination of surrounding land. In circumstances where more sensitive land uses are proposed on contaminated land or potentially contaminated land, it is important to ensure that the land is remediated to a satisfactory degree to avoid or reduce risks to human health.

Contaminated land needs to be managed so that it does not pose a risk to current or future owners, occupiers and/or users. The management of contaminants on land needs to be adequate to protect reasonably foreseeable future owners, occupiers and users. Poorly implemented management plans and poorly managed information can result in uninformed land use decisions and expose people and the environment to unacceptable risks.

How this chapter is to be applied

The objectives and policies contained within this chapter apply across the Wellington City boundaries for all applications relating to or involving the remediation, use, redevelopment and subdivision of existing and potentially contaminated land, irrespective of whether the application is being dealt with under the area based rules or Chapter 32 rules. When a resource consent is necessary under the rules in this chapter, the objectives and policies are to be considered in conjunction with the objective and policy provisions of the plan for the underlying zone. If the rules in this chapter apply to a proposal, they apply in addition to any rules within those chapters, and do not supersede the need to obtain any other necessary resource consents.

31.2 Contaminated Land Objectives and Policies

OBJECTIVE

31.2.1 To manage the remediation, use, redevelopment and subdivision of contaminated and potentially contaminated land so as to avoid or mitigate the risk of adverse effects on human health and the environment.

POLICIES

To achieve this objective, Council will:

31.2.1.1 Work with the Regional Council and landowners to identify all contaminated and potentially contaminated land in the city and to assist to compile a register of all potential and confirmed contaminated and remediated land in the city.

31.2.1.2 Minimise and control the adverse effects that may arise from the use, redevelopment and subdivision of any contaminated or potentially contaminated land.

31.2.1.3 Encourage the remediation of contaminated or potentially contaminated land to a level that is appropriate for any likely future use of the land.

METHODS

- Building Act
- Wellington Regional Council Selected Land Use Register
- Ministry for the Environment's Hazardous Activities and Industries List
- Ministry for the Environment's Contaminated Land Guidelines
- Ministry of Health's Environmental Case Management of Lead Exposed Persons; Guidelines for Public Health Services
- Department of Labour's Health and Safety Guidelines on the Cleanup of Contaminated Sites
- Computer Register
- Land Information Memorandum / Project Information Memorandum
- Rules
- Other mechanisms (such as the Regional Discharges to Land Plan)

Because contaminated land can damage human health and the wider environment, Council believes that District Plan restrictions are necessary. There are a number of sites throughout Wellington City that have been confirmed as containing contaminated land, and are identified in the Wellington Regional Council's Selected Land Use Register. However, not all contaminated land within Wellington City has been identified. To assist in identifying potentially contaminated land, the Council uses the Ministry for the Environment's Hazardous Activities and Industries List (HAIL) that lists specific land uses that may potentially cause contamination.

The HAIL identifies industries and activities that typically use or store hazardous substances and could cause contamination if these substances escaped from safe storage, were disposed of on the site, or were lost to the environment through their use. The fact that an activity or industry appears on the list does not necessarily mean that hazardous substances were used or stored on all land occupied by that activity or industry, nor that a site of this sort will have hazardous substances present in the land. The list merely indicates that such activities and industries are more likely to use or store hazardous substances and therefore there is a greater probability of site contamination occurring than other uses or activities. Conversely, where an activity or industry that does not appear on the list, this does not always guarantee such a site will not be contaminated. Each case must be considered on its merits, considering the information at hand. In applying the list, it must be remembered that the activity may only have occupied a small part of the site, and therefore the possibility of contamination will also be for a small part of the site. The District Plan recognises this by its definition of contaminated land. Council aims to work with Wellington Regional Council and landowners and to use the HAIL to identify contaminated and potentially contaminated land and maintain a register of potential and confirmed contaminated and remediated land.

The Council encourages subsurface investigations of contaminated and potentially contaminated land to determine the presence of contamination, and the degree of any identified contamination, prior to any remediation, use, redevelopment or subdivision occurring.

Any activity that seeks to remediate, use, redevelop or subdivide contaminated, or potentially contaminated land, will be assessed as a Discretionary Activity (Restricted). This will ensure that proper and safe measures are undertaken and that remediation practices will not lead to further degradation of the site, surrounding environment or present a risk to human health.

The use, redevelopment and subdivision of potentially contaminated land is restricted until the presence of contamination is confirmed. The use, redevelopment and subdivision of known and potentially contaminated land is restricted until the land is remediated to a level that is appropriate for the proposed redevelopment and likely future uses. The former landfill in Seatoun (refer Appendix 15, Chapter 5) is an example of an area mapped Outer Residential which requires specific management should development occur.

The Ministry for the Environment, Ministry of Health and the Department of Labour have published several guidelines for the management of contaminated land and it is expected that applicants will adhere to these guidelines (particularly the Contaminated Land Management Guidelines 1-5 and any relevant Ministry for the Environment industry-specific contaminated land guidelines as appropriate) in completing the site analysis and preparing the approach to decontamination.

The environmental result will be the identification, remediation and appropriate future use of contaminated land.

32. CONTAMINATED LAND RULES

The rules in this chapter apply in conjunction with the relevant area based rules except for Chapter 11A.

32.1 Permitted Activities

The following activities are permitted with respect to Contaminated Land provided they comply with any specified conditions.

32.1.1 Subsurface investigations of contaminated and potentially contaminated land to determine the presence, extent and nature of any contamination is a Permitted Activity provided that they comply with the following condition:

32.1.2 The use, redevelopment or subdivision of potentially contaminated land that has been confirmed as not being contaminated land following subsurface investigations is a Permitted Activity, provided that:

32.1.2.1 A subsurface sampling report prepared by a suitably qualified environmental scientist shall be provided to the Council.

Providing for subsurface investigations to determine the presence, extent and nature of any contamination will help to identify contaminated land and ensure that any subsequent resource consent applications for subdivision, use, or activity (including the remediation or redevelopment) are informed by the results of the subsurface investigations.

It is considered that it would be unreasonable to require a resource consent when land that may have been contaminated by previous activities has been confirmed as not being contaminated following appropriate subsurface investigations. This provision should be read in conjunction with other District Plan controls.

32.2 Discretionary Activities (Restricted)

Section 32.2 describes which activities are Discretionary Activities (Restricted). Consent may be refused or granted subject to conditions. Grounds for refusal and conditions will be restricted to the matters specified in rule 32.2.1.1 – 32.2.14. The decision on whether or not a resource consent application will be notified will be made in accordance with the provisions on notification in the Act.

32.2.1 Except for as provided in the Airport Precinct Rules, the subdivision, use, or activity (including the remediation or redevelopment) of any known contaminated land, or potentially contaminated land (that has not otherwise been confirmed as not being contaminated through site investigations), is a discretionary activity (restricted) in respect of:

32.2.1.1 The nature and extent of contamination

32.2.1.2 The risk posed by contaminants to public health and safety

32.2.1.3 The effects of contamination on built structures, ecological and amenity values, soil quality, surface and groundwater quality and the wider environment

32.2.1.4 The approach to the remediation and on-going management of the contaminated land and the mitigation measures (including monitoring) proposed to avoid adverse effects on public health, safety and the environment

Non-notification

The written approval of affected persons will not be necessary in respect of items 32.2.1.1 to 32.2.1.4. Notice of applications need not be served on affected persons and applications need not be notified.

Assessment Criteria

In determining whether to grant consent and what conditions, if any, to impose, Council will have regard to, but will not be limited to, the following criteria:

32.2.1.5 The proposed methodology for the remediation of the land, including the provision of a Remediation Plan that addresses:

- How any adverse effects on the surrounding environment resulting from earth moving or removal and any potential discharges from the site will be managed (eg sediment control, site covering and dust control),
- Where soil is to be removed from the site, the disposal of any contaminated soils.
- How the health and safety of the workers and the wider community will be provided for during site works, including, if necessary, the presence of public exclusion zones, site security and location of worker amenity facilities.
- The standard of remediation on completion.
- The potential for recontamination to occur, where the land may become contaminated due to the presence of contamination on adjacent land or sites.
- Any alternatives to remediation, where there are more appropriate mitigation techniques to remediation that will avoid risk to public health and safety and prevent exposure to the contaminated soil.

- Any potential long-term or cumulative effects of discharges from the site.

32.2.1.6 The extent to which any proposal for the remediation of contaminated land meets the Ministry for the Environment's Contaminated Land Management Guidelines 1 to 5, any relevant Ministry for the Environment industry-specific contaminated land guidelines, the Department of Health's Guidelines for Public Health Services for Managing Lead Exposed Persons, and the Department of Labour's Health and Safety Guidelines on the Cleanup of Contaminated Sites.

32.2.1.7 The extent to which any potential adverse effects of remediation are acceptable.

32.2.1.8 The suitability of the land for its proposed end use, including whether adequate measures are proposed to ensure the on-going safe use of the land.

Activities on contaminated land are controlled for two reasons. First, to prevent the contamination adversely affecting occupiers of the land, the community or the environment, and second, to ensure that such land is cleaned up to a degree that is suitable for its future intended use. The former landfill in Seatoun (refer Appendix 15 to Chapter 5) is an example of an area which, while mapped Outer Residential, requires specific management.

Contaminated land will become more common in Wellington as it is discovered through the environmental monitoring procedures of both the City and Regional Councils and as land that may be potentially contaminated through past practices is identified through the use of the Ministry for the Environment's Hazardous Industries and Activities List (HAIL).

While the use, redevelopment and subdivision of contaminated land is a Discretionary Activity (restricted), this will not be used as a barrier to the remediation of the land. Council desires to see such land cleaned up and will facilitate this process to the best of its ability. Council will seek remediation in accordance with the guidelines of the Ministry for the Environment, Department of Health and Department of Labour.