

**BEFORE THE INDEPENDENT HEARINGS PANEL  
OF KAIPARA DISTRICT COUNCIL**

**UNDER** the Resource Management Act 1991 ("**RMA**")

**AND**

**IN THE MATTER** of the Proposed Kaipara District Plan ("**Proposed  
District Plan**")

**SUBMITTER** Fonterra Limited

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**STATEMENT OF EXPERT EVIDENCE OF GRAEME JOHN MATHIESON  
ON BEHALF OF FONTERRA LIMITED  
PLANNING**

**HEARING 6 - HAZARDOUS SUBSTANCES**

**17 FEBRUARY 2026**

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## 1. EXECUTIVE SUMMARY

- 1.1 In terms of Hearing 6 (Hazardous Substances) for the Proposed Kaipara District Plan (**Proposed District Plan**), Fonterra Limited's (**Fonterra**) submission sought an exemption from the permitted activity thresholds for hazardous substances specific to the Maungatūroto Dairy Manufacturing Site (**Maungatūroto Site**).<sup>1</sup> This is generally consistent with the current approach in the Operative Kaipara District Plan (**Operative District Plan**) which was approved by Environment Court Consent Order.
- 1.2 The Kaipara District Council (**Council**) Officer's s42A Report (**S42A Report**) recommends rejecting Fonterra's submission raising concerns about reverse sensitivity, natural hazards, cumulative risk and precedent setting. In response:
- (a) In terms of reverse sensitivity, the core dairy manufacturing facilities within the Maungatūroto Site are appropriately located in a Heavy Industrial Zone (**HIZ**) surrounded by the General Rural Zone (**GRUZ**) (n.b. Fonterra owns the majority of the GRUZ land between the Maungatūroto Site's HIZ and the Doctors Hill Road residential area). There are no sensitive/incompatible activities or Residential Zones in close proximity to the Maungatūroto Site. There are existing rules and performance standards in place (and new standards being sought by Fonterra) discouraging the establishment of new nearby sensitive/incompatible activities.
  - (b) A large portion of the Maungatūroto Site is affected by a 1 in 100-year River Flood Hazard Zone on the Planning Maps. However, the storage and use of hazardous substances within natural hazard areas (including a "River Flood Hazard Area")<sup>2</sup> is addressed via provisions within the Natural Hazards chapter (which will be subject to a separate Hearing).
  - (c) In terms of cumulative risk, Fonterra's dairy manufacturing sites store and use hazardous substances within highly engineered and centrally controlled facilities and systems that are subject to the extensive requirements under the Hazardous Substances and New Organisms Act

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<sup>1</sup> Submission point 310.21.

<sup>2</sup> Defined as "...land identified on the Planning Maps that has been assessed as having at least a 1 percent chance of river flooding occurring annually (1% AEP). This land is identified in the Planning Maps as: River Flood Hazard Area 3".

1996 (**HSNO**), the Health and Safety at Work Act 2015 (**HSW**) and the Health and Safety at Work (Hazardous Substances) Regulations 2017 (**HSW-HS**). Fonterra has comprehensive Hazardous Substances Management Systems in place including an Emergency Response Plan, a Site Hazardous Substances Register (and Hazardous Substances Locations Map), worker competency training and safety data sheets held onsite. All of Fonterra's dairy manufacturing sites (including the Maungatūroto Site) operate under third-party certified environmental management systems aligned with the ISO 14001 standard. Accordingly, I do not consider cumulative risk to be a significant issue of concern for the Maungatūroto Site.

(d) I do not consider precedent setting to be a valid resource management reason. The Proposed District Plan review process provides an opportunity for anyone to seek new provisions appropriate to their specific circumstances (and suitably justified), and site specific provisions for hazardous substances are not unusual (and consistent with the current approach in the Operative District Plan)<sup>3</sup>.

1.3 Fonterra has concerns about the permitted activity thresholds for “High Biological Oxygen Demand” (**High BOD5**)<sup>4</sup> capturing raw milk and various processed variations of milk, milk products (e.g. liquid whey, cheese, casein, yoghurt, ultra high temperature (**UHT**) products), plus associated wastewater streams. The aggregate quantity of existing milk related products and associated waste streams within the Maungatūroto Site currently easily exceeds the 100T permitted threshold for High BOD5.<sup>5</sup> As a result, the current hazardous substances rules would trigger resource consent for future expansion/upgrading of the Maungatūroto Site involving High BOD5 activities (e.g. new liquid milk products, new wastewater treatment plant).

1.4 Contrary to the advice in the Council Officer's s32 Report (**S32 Report**), my evidence provides examples of recently developed district plans that have discontinued the use of rules controlling the storage, use and transportation of hazardous substances in response to the Resource Legislation Amendment Act 2017 (**RLAA**) (consistent with guidance that controls on hazardous substances in district plans should generally be the exception rather than the

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<sup>3</sup> Refer to examples provided in paragraph 6.6 of my evidence.

<sup>4</sup> Standard HS-S1 in the Proposed District Plan defines “High BOD5” as “>10,000mg/l”.

<sup>5</sup> Rule HS-R1 permits the use, storage or disposal of any hazardous substances subject to the aggregate quantity of any hazardous substance of any hazard classification on the site not exceeding the limit specified for the applicable zone in Standard HS-S1.

norm).

1.5 It is considered that continued compliance with HSNO, the HSW and the HSW-HS is sufficient for the storage and use of hazardous substances at the Maungatūroto Site and additional Proposed District Plan controls are not required.

1.6 I recommend that the relief sought by Fonterra's submission is granted.

## **2. INTRODUCTION**

### **Qualifications and Experience**

2.1 My full name is Graeme John Mathieson.

2.2 I am a Senior Consultant at Mitchell Daysh Ltd, a company which commenced operations on 1 October 2016 following a merger of Mitchell Partnerships Ltd and Environmental Management Services Ltd.

2.3 I hold a Masters of Regional and Resource Planning degree from the University of Otago, which I obtained in 1992.

2.4 I am a member of the Resource Management Law Association of New Zealand.

2.5 I have been employed as a planner and resource management professional for over 30 years and have worked on a wide range of resource management projects for Fonterra and other clients including resource consents and plan changes across the country, most recently including:

- (a) Resource consents for new biomass boilers at Fonterra's Waitoa and Hautapu Dairy Manufacturing Sites;
- (b) Private Plan Change 55 to the Matamata Piako District Plan which introduced a new Noise Emission Control Boundary (and associated noise rules) for Fonterra's Waitoa Dairy Manufacturing Site;
- (c) Resource consents for new electric boilers at Fonterra's Waitoa and Edgecumbe Dairy Manufacturing Sites;
- (d) Renewal of water permit, air discharge permit at Fonterra's Edgecumbe Dairy Manufacturing Site (currently assisting with renewing a site-wide earthworks/contaminated site consent);

- (e) Plan Change 1 (Natural Hazards) to the Whangārei District Plan in relation to the Kauri Dairy Manufacturing Site (**Kauri Site**) and associated farms (review for Fonterra);
- (f) Currently assisting Fonterra with securing resource consents for a new wastewater treatment plant at its Edgecumbe Dairy Manufacturing Site;
- (g) Currently assisting Fonterra with renewing “farming activity” consent in relation to the irrigation farms for its Clandeboye Dairy Manufacturing Site;
- (h) Land use consent for a new wastewater treatment plant at the Hautapu Dairy Manufacturing Site (and associated construction consents), including currently assisting with securing resource consents for spray irrigation of treated wastewater from the new wastewater treatment plant onto a new Fonterra-owned farm;
- (i) Secured replacement resource consents for Fonterra to continue discharging treated wastewater from the Maungatūroto Site to the Kaipara Harbour;
- (j) Proposed Selwyn District Plan (review for AgResearch Limited); and
- (k) Proposed Wairarapa Combined District Plan, Proposed Timaru District Plan, Proposed Te Tai o Poutini Plan, Proposed Gore District Plan, Proposed Porirua District Plan (review for Rural Contractors New Zealand Incorporated).

2.6 I can confirm that I reviewed the Proposed District Plan on behalf of Fonterra and prepared Fonterra’s primary and further submissions. I also previously assisted Fonterra in reviewing and submitting on the proposed version of the Operative District Plan, presented planning evidence in Council Hearings, and was involved in Fonterra’s Environment Court appeal and mediation.

### **Code of Conduct**

2.7 I confirm that I have read the Expert Witness Code of Conduct set out in the Environment Court's Practice Note 2023. I have complied with the Code of Conduct in preparing this evidence and I agree to comply with it while giving oral evidence before the Hearings Commissioners. Except where I state that I am relying on the evidence of another person, this written evidence is within my area of expertise. I have not omitted to consider material facts known to

me that might alter or detract from the opinions expressed in this evidence.

### **3. SCOPE OF EVIDENCE**

3.1 Fonterra made submissions on a range of matters through its submission and further submission on the Proposed District Plan. Fonterra's interests have been categorised into a range of different hearing streams for the purposes of the hearing for the Proposed District Plan. This statement of evidence only addresses Fonterra's submission point in relation to Hearing 6 (Hazardous Substances).

3.2 The relevant submission point is 310.21 which seeks an exemption from the permitted activity thresholds for hazardous substances in Standard HS-S1 for:

*“The storage and use of hazardous substances associated with the operation of the Maungatūroto Dairy Factory.”*

3.3 Through other Hearings, Fonterra will provide separate evidence covering its other submission points and will provide more comprehensive statements of evidence which outline Fonterra's activities in the district and its contribution to the district and regional economy. This statement relies in part on that broader evidence.

3.4 This statement of evidence will:

- (a) Provide an overview of Fonterra's submission;
- (b) Discuss the S42A Report recommendation (and associated reasons) to decline Fonterra's submission; and
- (c) Discuss the S32 Report.

### **4. OVERVIEW OF FONTERRA'S SUBMISSION**

4.1 As noted in Fonterra's submission, a range of hazardous substances are stored and used at the Maungatūroto Site, in compliance with HSNO, the HSW and the HSW-HS. The submission concludes that the Maungatūroto Site (located within the HIZ) is suitable for the storage and use of hazardous substances and that continued compliance with the legislative controls outlined above is sufficient (so no additional controls are required in the Proposed District Plan).

- 4.2 In the Hazardous Substance Chapter of the Proposed District Plan, Rule HS-R1 permits the use, storage or disposal of any hazardous substances subject to the aggregate quantity of any hazardous substance of any hazard classification on the site not exceeding the limit specified for the applicable zone in Standard HS-S1. Non-compliance triggers the need for a restricted discretionary activity resource consent. Accordingly, Fonterra's submission sought the following site-specific exemption from Standard HS-S1:

***“Exemptions to HS-S1 Hazardous substances permitted activity thresholds:***

1. *The storage and use of hazardous substances associated with the operation of the Maungatūroto Dairy Factory.”*

- 4.3 To enable implementation of the proposed exemption (and other site specific provisions sought in Fonterra's submission), Fonterra also sought to identify the extent of the “*Maungatūroto Dairy Factory*” site located within the HIZ on the Planning Maps, and introduce the following new definition for the “*Maungatūroto Dairy Factory*” within the Definitions section:

*“The Heavy Industrial Zone area within Maungatūroto shown as “Maungatūroto Dairy Factory” on the planning maps.”*

- 4.4 Fonterra's submission notes that this approach would be broadly consistent with the current approach in the Operative District Plan (which was approved by way of Environment Court Consent Order) specifically, in terms of the storage and use of hazardous substances, Rule 14.10.21(e) exempts the following from compliance with Table 2 (Permitted Conditions) in Appendix 25D: Hazardous Substances:

*“It is an activity operating as part of a Dairy Factory that has a third party certified environmental management system in respect of environmental management of hazardous substances for the Activity on the site (for example ISO 14001: 2004 accreditation).”*

## **5. DISCUSSION OF SECTION 42A REPORT RECOMMENDATIONS**

- 5.1 The S42A Report recommends rejecting Fonterra's submission for the following reasons (as specified in Section 10 of the report titled “*Topic 8: HS-S1 Hazardous substances permitted activity thresholds*”).<sup>6</sup>

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<sup>6</sup> S42A Report, para [220].

*“In regard to Fonterra Limited [310.21] seeking exemptions to HS-S1 thresholds for its Maungaturoto Dairy Factory, I consider that granting a blanket exemption for one operator sets a precedent for others to seek similar relief, potentially leading to inconsistent application of the District Plan. This approach could potentially weaken Council’s ability to manage land use effects under the RMA, including reverse sensitivity, cumulative risk, and exposure to natural hazards—matters not addressed by HSNO or HSWA. Over time, widespread exemptions could erode environmental protections, create uncertainty for plan users, and expose Council to legal and reputational risks if adverse effects occur at exempted sites. The better approach is to retain HS-S1 and allow site-specific consents where justified, ensuring flexibility without compromising public safety or environmental outcomes. I do not recommend a blanket exemption for the Maungaturoto Dairy Factory.”*

- 5.2 I do not agree with the reasons in the S42A Report for rejecting Fonterra’s submission.
- 5.3 In terms of the concerns about potential reverse sensitivity effects, as noted in Fonterra’s submission, the Maungatūroto Site has no sensitive activities in close proximity, in this regard:
- (a) The HIZ covering the core dairy manufacturing activities within Maungatūroto Site is surrounded by the GRUZ (n.b. Fonterra owns the majority of the GRUZ land between the site’s HIZ and the Doctors Hill Road residential area (located within the General Residential Zone (**GRZ**)). The nearest existing dwelling within the surrounding GRUZ is approximately 175m north-east of the HIZ covering the Maungatūroto Site.
  - (b) The nearest residential zone is approximately 60 metres south-west of the HIZ within the Maungatūroto Site (i.e. the southern end of the Doctors Hill Road GRZ). However, this is in the vicinity of an access leg to an adjacent property (and stormwater treatment ponds for the Maungatūroto Site) so it is highly unlikely to be used for a hazardous substances storage facility). In terms of the remaining core dairy manufacturing activities, the nearest residential zone is approximately 180m to the south-west. No submitters are seeking a new residential zone in closer proximity to the Maungatūroto Site.
  - (c) In terms of the surrounding GRUZ, consistent with the approach in the Operative District Plan, Standard GRUZ-S4.3 requires that:

*“All buildings used for sensitive activities are located outside of the Maungatūroto Dairy Factory Noise Sensitive Area.”<sup>7</sup>*

Otherwise, non-compliance triggers a discretionary activity resource consent under Standard GRUZ-S4.4. As reflected on the Proposed District Plan Planning Maps, the *“Maungatūroto Dairy Factory Noise Sensitive Area”* extends beyond the Heavy Industrial zoning of the Maungatūroto Site (between approximately 200-500m) reflecting the existing use rights noise environment.<sup>8</sup> Standard GRUZ-S4 protects the Maungatūroto Site from potential reverse sensitivity effects (and was supported by Fonterra’s submission).

- (d) Fonterra’s submission also seeks new standards requiring discretionary activity resource consent for *“noise sensitive activities”*<sup>9</sup> within the GRZ (i.e. Doctors Hill Road residential area) and for proposed building platforms associated with any subdivision<sup>10</sup>, if located within the *“Maungatūroto Dairy Factory Noise Sensitive Area”*. Consistent with the Operative District Plan, the proposed new rules specify that the owner and operator of the Maungatūroto Site is an affected person and are designed to address potential reverse sensitivity effects.
- (e) In terms of the HIZ, Rules HIZ-R14 - HIZ-R17 provide for the following activities as non-complying activities:
- Retail or office activity not otherwise provided for;
  - Residential activity (except employee residential unit);

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<sup>7</sup> *“Sensitive activity”* is defined as:

*“...all or any of the following:*

- a. an educational facility, including a childcare facility, wananga and kohanga reo,*
- b. a residential activity, including papakainga building, rest home, retirement village, visitor accommodation, home stay;*
- c. a healthcare activity; and*
- d. a hospital.”*

<sup>8</sup> Pursuant to s139A of the RMA, Kaipara District Council granted an Existing Use Certificate dated 1 June 2010 confirming existing use rights for the Maungatūroto Site (including the existing use rights noise environment).

<sup>9</sup> *“Noise sensitive activities”* is defined as:

*“includes residential use, hospitals, homes for the aged, places of assembly for cultural, entertainment, recreation, or leisure, education facilities, conference centres, public halls, child care facility, theatres, motels, hotels, cinemas, display galleries and museums, and other similar uses and activities.”*

<sup>10</sup> Generally consistent with Rule 12.15.14 of the Operative District Plan which requires a restricted discretionary activity subdivision consent for any subdivision in the Rural Zone that is located within the Noise Control Boundary for the Maungatūroto Site.

- Community facilities and education facilities; and
- Visitor accommodation.

Accordingly, a range of incompatible activities are clearly discouraged from establishing within the HIZ.

5.4 In terms of the S42A Report's concerns about natural hazards, this is a consideration because a large portion of the Maungatūroto Site is affected by the 1 in 100-year River Flood Hazard Zone. However, the storage and use of hazardous substances within natural hazard areas is addressed via provisions within the Natural Hazards chapter (which will be subject to a separate Hearing). By way of example, under Rule NH-R12, a "*significant hazardous facility*"<sup>11</sup> is a non-complying activity in a "River Flood Hazard Area".<sup>12</sup> Further, Rule NH-R4 requires restricted discretionary resource consent for any new buildings within a River Flood Hazard Area (which would capture new hazardous substances storage facilities). Fonterra's submission on the Natural Hazards chapter seeks new permitted activity rules and standards for buildings/activities within a River Flood Hazard Area (based on a site specific Flooding Assessment and/or a site specific Flood Hazard Risk Assessment). The proposed approach is consistent with the "permitted pathway" approach taken in Plan Change 1 (Natural Hazards) to the Whangārei District Plan (PC1).

5.5 In terms of the S42A Report concerns about cumulative risk, as reflected in Objective HIZ-O1, the purpose of the HIZ is as follows:

*The Heavy industrial zone is developed and used primarily for heavy industrial activities, and to meet the District's short and long term needs for land for heavy industrial activities.*

5.6 Heavy industrial activities (such as those associated with the Maungatūroto Site) typically contain a conglomeration of activities associated with the use and storage of hazardous substances, and the HIZ is a suitable zone for such activities. In terms of cumulative risk, Fonterra's dairy manufacturing sites store and use hazardous substances within highly engineered and centrally controlled facilities and systems that are subject to HSNO, HSW and the HSW-

<sup>11</sup> Defined as "...a site where the aggregate quantity of any hazardous substance of any hazard classification on the site exceeds the quantity specified for the applicable zone in Standard HS-S1 in the Hazardous Substances chapter of this plan."

<sup>12</sup> Defined as "...land identified on the Planning Maps that has been assessed as having at least a 1 percent chance of river flooding occurring annually (1% AEP). This land is identified in the Planning Maps as: River Flood Hazard Area 3".

HS. The HSW-HS regulations in particular include an extensive range of requirements including (but not limited to) storage, secondary containment, signage, location compliance certificates, record keeping and management systems, emergency response plans, segregation of incompatible substances, minimum separation distances for certain hazardous substance classifications from “*protected places*”<sup>13</sup> and “*public places*.”<sup>14</sup> In this regard, Fonterra has comprehensive Hazardous Substances Management Systems in place including an Emergency Response Plan, a Site Hazardous Substances Register (and Hazardous Substances Locations Map), worker competency training and safety data sheets held onsite. Further, all of Fonterra’s dairy manufacturing sites (including the Maungatūroto Site) operate under third-party certified environmental management systems aligned with the ISO 14001 standard. Accordingly, I do not consider cumulative risk to be a significant issue of concern for the Maungatūroto Site.

- 5.7 In terms of the S42A Report’s concern about setting a precedent for others to seek a similar exemption, I do not consider this is a valid resource management reason. The Proposed District Plan review process provides an opportunity for anyone to seek new provisions appropriate to their specific circumstances, and site specific provisions for hazardous substances are not unusual. Fonterra sought an exemption from the permitted activity thresholds for hazardous substances in Standard HS-S1 that is specific to the Maungatūroto Site, not anywhere else. The relief sought is also consistent with the current approach in the Operative District Plan (which was approved by way of Environment Court Consent Order), and Fonterra is not aware of any

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<sup>13</sup> The HSW-HS defines “*protected place*” as:

(a) *includes—*

- (i) *a dwelling, residential building, place of worship, public building, school or college, hospital, child care facility, or theatre, or any building or open area in which persons are accustomed to assemble in large numbers, whether within or outside the property boundary of a place where a hazardous substance location is situated;*
- (ii) *any factory, workshop, office, store, warehouse, shop, or building where persons are regularly employed, whether within or outside the property boundary of a place where a hazardous substance location is situated;*
- (iii) *a ship lying at permanent berthing facilities;*
- (iv) *a public railway; but*

(b) *does not include a small office or other small building associated with a place where storage, handling, use, manufacture, or disposal of a class 2, 3, 4, 5, 6, or 8 substance is a major function.*

<sup>14</sup> The HSW-HS defines “*protected place*” as:

(a) *means a place (other than private property or a protected place) that is open to, and frequented by, the public; and*

(b) *includes a public road*

Council issues or concerns in relation to the existing approach. The relief sought does not set a precedent in terms of the current Proposed District Plan review process. Anyone else would need to go through a private plan change application process to seek similar site specific provisions (and justify how any such provisions would be appropriate).

- 5.8 I note that the S32 Report supports the approach in the Proposed District Plan and includes the following comments within the option assessment in paragraph 31:<sup>15</sup>

*“Option 4 – Retain main provisions of KDP with appropriate amendments to objectives and policies. Retain the concept of “significant hazardous facility” determined by hazardous substance quantity thresholds. This approach would retain most hazardous facilities as permitted. This would require few land use consents, which would only be triggered by significant hazardous facilities.”*

- 5.9 Rule HS-R1 of the Proposed District Plan permits the use, storage or disposal of any hazardous substances subject to the aggregate quantity of any hazardous substance of any hazard classification on the site not exceeding the limit specified for the applicable zone in Standard HS-S1, otherwise a restricted discretionary activity resource consent is required.
- 5.10 Because Fonterra’s Maungatūroto Site comprises a large industrial dairy manufacturing site that stores and uses multiple chemicals, it could potentially exceed the permitted limits for the aggregate quantity of any specific hazardous substance classification. By way of example (and of particular concern to Fonterra) is the permitted 100T limit for High BOD5 (>10,000mg/l) >30m from a watercourse (and the 40T limit for High BOD5 (>10,000mg/l) <30m from a watercourse). This would potentially capture raw milk and various processed variations of milk, milk products (e.g. liquid whey, cheese, casein, yoghurt, UHT products), plus associated wastewater streams. The aggregate quantity of existing milk related products and associated waste streams within the Maungaturoto Site currently easily exceeds the 100T permitted threshold for High BOD5<sup>16</sup>. As a result, the current hazardous substances rules would trigger resource consent for future expansion/upgrading of the Maungatūroto Site involving High BOD5 activities (e.g. new liquid milk products, new wastewater treatment plant). I also note the permitted thresholds for the HIZ

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<sup>15</sup> S32 Report, para [31].

<sup>16</sup> Rule HS-R1 permits the use, storage or disposal of any hazardous substances subject to the aggregate quantity of any hazardous substance of any hazard classification on the site not exceeding the limit specified for the applicable zone in Standard HS-S1.

are the same as those for the Light Industrial Zone, the Commercial Zone and the Hospital Special Purpose Zone).

- 5.11 It is considered that continued compliance with HSNO, the HSW and the HSW-HS is sufficient for the storage and use of hazardous substances at the Maungatūroto Site and additional Proposed District Plan controls are not required (consistent with the approach in the Operative District Plan). I consider that by addressing the specific concerns raised in the S42A Report, I have demonstrated that such an approach for the Maungatūroto Site would be consistent with the policy framework for hazardous substances.

## 6. DISCUSSION OF S32 REPORT

- 6.1 The S32 Report for Hazardous Substances discusses the RLAA which amended Sections 30 and 31 of the RMA to remove the control of hazardous substances as an explicit function of councils (n.b. consequential changes were also made to HSNO and HSW at the time to reflect these amendments). In this context, the S32 Report states:

*“It has been suggested that the repeal of this item means that territorial authorities should no longer set out to manage the effects of hazardous substances. However, since 2017 most district plans have continued to include hazardous substances provisions.”*

- 6.2 I do not fully agree with this statement. My understanding is that the RLAA means that councils no longer have an explicit obligation to regulate hazardous substances in RMA plans, or policy statements. As noted by the relevant Ministry for the Environment Fact Sheet 2 regarding the implications of the RLAA:<sup>17</sup>

*“The intent of this change is to remove the perception that councils must always place controls on hazardous substances if they are necessary to control effects under the RMA that are not covered by the HSNO or HSW Acts.*

*In most cases HSNO and Worksafe controls will be adequate to avoid, remedy or mitigate adverse environmental effects (including potential effects) of hazardous substances.”*

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<sup>17</sup> Ministry for the Environment fact sheet titled “Resource Legislation Amendments 2017 – Fact Sheet 2” (<https://environment.govt.nz/assets/Publications/Files/Fact-Sheet-2-Revised-functions-for-RMA-decision-makers-amended.pdf>)

- 6.3 Similarly, the “Quality Planning” guidance on “Hazardous Substances under the RMA” states the following within the “Introduction” section:<sup>18</sup>

*“In most cases, the HSNO Act and the HSW Act controls are adequate to avoid, remedy or mitigate adverse environmental effects of hazardous substances. However, in particular circumstances it may be appropriate that RMA controls are used, subject to robust s32 analysis to ensure that such controls are effective and efficient. **The expectation is that controls on hazardous substances in RMA plans will be the exception rather than the norm.**” [emphasis added]*

- 6.4 In terms of the S32 Report advice that “most district plans have continued to include hazardous substances provisions”, I note that while there are examples of councils continuing to retain rules controlling the use, storage and transportation of hazardous substances, a number of councils have recently adopted the approach of retaining hazardous substances chapters with objectives and policies, but discontinuing use of specific rules. Such district plans include the:

- (a) Porirua District Plan (Operative 2025);
- (b) Kāpiti Coast District Plan (Operative 2021);
- (c) Whangārei District Plan (as a result of Plan Change 91 (Hazardous Substances) (**PC91**) becoming operative in October 2023), relevant to Fonterra’s Kauri Site; and
- (d) Decisions version of the Te Tai o Poutini Plan (October 2025).

- 6.5 Using PC91 as an example, the Whangārei District Plan previously included rules that required the application of the Hazardous Facilities Screening Procedure to identify whether a resource consent was required for the storage or use of a hazardous substance. The Section 32 Report for PC91 (**PC91 S32 Report**) noted that the majority of the use and storage of hazardous substances in the Whangārei District is associated with industrial activities located in Industrial Zones (but also within the Port Zone, Airport Zone and the Strategic Rural Industries Zone (which contains the Kauri Site)). The PC91 S32 Report noted that following analysis of the Whangārei District Plan, it was concluded that there was no need for any rules specifically controlling hazardous substances over and above the existing zone based rules (which

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<sup>18</sup> <https://qualityplanning.org.nz/node/1150>

formed the basis for PC91 removing all rules relating to hazardous substances).

- 6.6 Examples of district plans that specifically exempt Fonterra's dairy manufacturing sites from requiring resource consent for the use and storage of hazardous substances include the:
- (a) Operative District Plan (in relation to the Maungatūroto Site);
  - (b) Operative Whakatāne District Plan (in relation to the Edgecumbe Dairy Manufacturing Site); and
  - (c) Operative Waipā District Plan (in relation to the Te Awamutu and Hautapu Dairy Manufacturing Sites, subject to a 30m setback from the nearest adjacent zone boundary); and
  - (d) Operative Hamilton City District Plan (in relation to the Te Rapa Dairy Manufacturing Site).<sup>19</sup>

## 7. CONCLUSION

- 7.1 Fonterra is seeking an exemption from the permitted activity thresholds for hazardous substances specific to the Maungatūroto Site (consistent with the current approach in the Operative District Plan as approved by Environment Court Consent Order).
- 7.2 The S42A Report recommends rejecting Fonterra's submission raising concerns about precedent setting, reverse sensitivity, cumulative risk and exposure to natural hazards. I do not agree with the S42A Report's recommendation for the reasons outlined in my evidence.
- 7.3 It is considered that continued compliance with HSNO, the HSW and the HSW-HS is sufficient for the storage and use of hazardous substances at the Maungatūroto Site and additional Proposed District Plan controls are not required.
- 7.4 I have provided examples of recently developed district plans that have discontinued the use of rules controlling the storage, use and transportation of hazardous substances in response to the RLAA. I have also provided

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<sup>19</sup> Rule 24.4.5.2 of the Operative Hamilton City District Plan permits a 20% increase in the volumes and quantities of hazardous substances (compared to 1 May 2016) and requires a 40m setback from the site boundary (otherwise an HFSP assessment is required).

examples of district plans that specifically exempt Fonterra's dairy manufacturing sites from requiring resource consent for the use and storage of hazardous substances (including the Operative District Plan).

7.5 I recommend that the relief sought by Fonterra's submission is granted.

**Graeme Mathieson**

**17 February 2026**