

Section 42A Report

Hazardous Substances

Prepared for the

Proposed Kaipara District Plan

Report prepared by: [Sarah Horton](#)

[30 January 2026](#)

List of submitters and further submitters addressed in this report:

Submission Number	Submitter
136	Federated Farmers of New Zealand (Inc) – Northland Province
140	Horticulture New Zealand
146	New Zealand Agricultural Aviation Association
178	Mangawhai Estates Partnership
229	Ravensdown Limited
283	Northpower Limited and Northpower Fibre Limited
287	Silver Fern Farms
292	Transpower New Zealand Limited
301	Channel Terminal Services Limited
308	Fire and Emergency New Zealand
309	Clarus
310	Fonterra Limited
311	Fuel Companies (BP, Mobil & Z Energy)
FS41	Channel Terminal Services Ltd
FS83	New Zealand Agricultural Aviation Association
FS93	Royal Forest and Bird Protection Society of New Zealand Incorporated
FS98	Fuel Companies (BP, Mobil & Z Energy)

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APPENDIX A: RECOMMENDATIONS FOR EACH SUBMISSION POINT ON THE HAZARDOUS SUBSTANCES CHAPTER

APPENDIX B: RECOMMENDED AMENDMENTS TO THE HAZARDOUS SUBSTANCES CHAPTER

APPENDIX C: SECTION 32AA EVALUATION

APPENDIX D: RECOMMENDED AMENDMENTS TO DEFINITIONS IN HAZARDOUS SUBSTANCES CHAPTER

APPENDIX E: LEGAL ADVICE FROM TOMPKINS WAKE DATED 14 JANUARY 2026

List of abbreviations used in this report

Abbreviation	Term
HSNO	Hazardous Substance and New Organism Act 1996
HSWA	Health and Safety at Work Act 2015
IHEMPS	Iwi-hapu environmental management plan
ODP	Kaipara District Council Operative District Plan
KDSP	Kaipara District Spatial Plan
LGA	Local Government Act 2002
LTP	Long Term Plan
MHF	Major Hazard Facilities
NES	National Environmental Standards
NPS	National Policy Statements
NCPS	New Zealand Coastal Policy Statement
NRC	Northland Regional Council
NPS:UD	National Policy Statement on Urban Development
PDP	Proposed Kaipara District Plan
PRP	Proposed Regional Plan
RWSP	Regional Water and Soil Plan
NRPS	Regional Policy Statement for Northland
RMA	Resource Management Act 1991
S32	Section 32 of the RMA
S42A	Section 42A of the RMA
SP	Structure Plan
RLAA	The Resource Legislation Amendment Act 2017

Executive Summary

- i. The Proposed Kaipara District Plan (**PDP**) was publicly notified in April 2025. The Hazardous Substances chapter is located in Part 2 – District Wide Matters and contains provisions that manage the effects of activities involving hazardous substances.
- ii. Thirteen original submitters (with 72 individual submission points) and four (4) further submitters (with 47 individual further submission points) made submissions on the Hazardous Substances topic. The majority of submitters support an effects-based framework that avoids duplication with the Hazardous Substances and New Organisms Act 1996 (**HSNO**) and the Health and Safety at Work Act 2015 (**HSWA**), while retaining district plan controls over location, compatibility with sensitive activities, cumulative effects, and reverse sensitivity.
- iii. Key matters raised by submitters include concerns regarding duplication with other regulatory regimes, the scope and clarity of definitions, the role of quantity threshold tables, and whether plan provisions should apply only to *significant* hazardous facilities.
- iv. Having considered the submissions and further submissions, I recommend targeted amendments to improve clarity and ensure the Hazardous Substances chapter focuses on residual land-use effects associated with significant hazardous facilities. These recommendations avoid duplication of HSNO/HSWA controls and focus district plan provisions on managing residual environmental risks and land-use compatibility issues not addressed by other regimes. The approach gives effect to the Northland Regional Policy Statement and aligns with national directions.
- v. My recommendations for the Hazardous Substances chapter are summarised as follows:
 - a. Retain and clarify the definition of “Significant Hazardous Facility” by more clearly linking it to exceedance of permitted activity thresholds and highlighting ‘Significant Hazardous Facilities’ in the Overview section of the chapter.
 - b. Retain the notified definition of “Hazardous Facility”.
 - c. Retain the notified definition of “cumulative risk”.
 - d. Do not include a definition of “Residual Risk”; continue to rely on its ordinary meaning.
 - e. Combine and rationalise the definitions of “Hazardous Substance” and “Hazardous Substances” into a single definition by adopting the RMA section 2 definition (which itself references section 2 of the HSNO Act).

- f. Amend the Overview section of the Hazardous Substances chapter to clarify the role of Significant Hazardous Facilities. Amend the Overview section clarifying that PDP provisions manage land-use effects and are not intended to duplicate HSNO/HSWA. Amend the Overview section to clarify activities involving hazardous substances within the Gas or Petroleum Pipeline Corridor are subject to specific controls in INF-R56 of the Infrastructure chapter.
- g. Retain HS-O1 as notified; no amendments recommended.
- h. Retain HS-O2 as notified; no amendments recommended.
- i. Amend HS-P1 heading to include “Significant” and hyperlink the term to its definition.
- j. Amend HS-P2 to explicitly apply to significant hazardous facilities and clarify wording.
- k. Retain HS-P3 focused on lawfully established significant hazardous facilities; no changes recommended.
- l. Refine HS-R1 wording for clarity, explicitly reference threshold table HS-S1 and allow for exemption for emergency services.
- m. Retain HS-R2 (Radioactive Materials) as notified.
- n. Retain HS-R3 (Fertiliser Storage) as notified.
- o. Retain HS-R4 (Lower-risk hazardous substance subclasses) as notified.
- p. Retain HS-R5 (Fuel storage at service stations) as notified for the General rural zone, Commercial zone, Light and Heavy industrial zones. Correct an error where standards have been omitted in the cascade from restricted discretionary to discretionary activities for the General residential zone, Rural lifestyle zone, Open space zone, Natural open space zone, Sport and active recreation zone, Māori purpose zone, and Hospital zone, and include the missing zone/special purpose zones.
- q. Retain HS-MAT1 and HS-MAT2 as notified; and
- r. Retain HS-S1 thresholds as notified.

1. Introduction

1.1 Qualifications and Experience

1. My full name is Sarah Alice-Eva Horton. I am a Senior Planner – Plan Development at Kaipara District Council (**KDC**) in the Policy and Planning Team.
2. My role in preparing this report is as an expert in planning.
3. I had no involvement in the preparation of the Hazardous Substances chapter or Section 32 evaluation report prior to notification but became the s42A reporting officer for this topic in November 2025.
4. I hold a Bachelor of Planning (Hons) at the University of Auckland and am a Full Member of the New Zealand Planning Institute.
5. I have 20 years' experience in statutory planning across local government, private consultancy and independent practice. My professional experience contains extensive assessment and processing of resource consents, including complex and notified applications, within Auckland and Northland. During my time at Auckland Council, I represented Auckland Council at the Environment Court, and was involved in the New Lynn Regeneration project, processing the consents for the undergrounding of the New Lynn Rail Station and electrification of the rail corridor western side. My private sector planning experience includes holding a leadership role reviewing and providing support in the preparation of planning reports and obtaining resource consents for small and large scale residential and subdivision developments in the Auckland and Northland regions. My professional background includes plan and policy development in my previous role as a Senior Policy Planner at Whangarei District Council. My independent practice included being on the supplier panel for Auckland Council and Whangarei District Council resource consent teams, reviewing and preparing submissions, and providing resource management advice.
6. I joined the Policy and Planning Team at KDC in November 2025 as a Senior Planner – Plan Development.

Preparation of the Report

7. I am authorised by KDC to prepare this report under section 42A of the Resource Management Act (**RMA**) to assist the Proposed District Plan (**PDP**) Hearings Panel. The purpose of this report is to both assist the Hearings Panel in hearing and deciding on submissions made on to the PDP, and to assist submitters in understanding how their submission is being considered as part of the PDP process. This report includes my recommendations on matters raised in

submissions, and any changes to the PDP that I consider to be appropriate having considered the statutory requirements.

8. I am the author of this report. The data, information, facts, and assumptions I have considered in forming my opinions are set out in my evidence. Where I have set out opinions in my evidence, I have given reasons for those opinions. I have not omitted to consider material facts known to me that might alter or detract from the opinions expressed.
9. Where technical matters relating to hazardous substance properties or risk assessment methodologies arise, I have relied on the technical analysis included in the Section 32 report prepared by Norbert Schaffoener, titled, 'Kaipara District Council – District Plan Review - Hazardous Substances Management', dated 29 November 2021.
10. For the avoidance of doubt, it should be emphasised that any conclusions reached or recommendations that I have made in this report are not binding on the Hearings Panel. It should not therefore be assumed that the Hearings Panel will reach the same conclusions or decisions having considered all the submissions and evidence from submitters. The decision ultimately lies with the Hearings Panel.

Code of Conduct

11. While this is not a hearing held by the Environment Court, I confirm that I have read the Code of Conduct for Expert Witness in the Environment Court Practice Note 2023 and that I have complied with it when preparing this report. Other than when I state that I am relying on the advice of another person, this 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 that I express.

Conflict of Interest

12. I confirm that I have no real or perceived conflict of interest.

2. Scope of Report

Matters addressed by this report

13. The scope of this report is to consider the submissions and further submissions made in respect of the provisions in the Hazardous Substances chapter of the PDP and make recommendations.
14. This report is prepared pursuant to section 42A of the RMA and is intended to assist the Hearings Panel to satisfy the requirements of clause 10 of the First Schedule. Clause 10 requires the Council to give a decision on the provisions and matters raised in submissions, including reasons for accepting or rejecting the submissions. This report provides my

recommendations on each submission point (Appendix A) and reasons for those recommendations, to assist the Panel in making its decision.

15. This section 42A report also addresses the definitions which are specific to the Hazardous Substances chapter, including the definitions of ‘Hazardous Facility’, ‘Significant Hazardous Facility’, ‘Residual Risk’, ‘Hazardous Substance’, ‘Hazardous Substances’, and ‘Cumulative Risk’.

Overview of the topic / chapter

16. As notified, the Hazardous Substances chapter contains the objectives, policies and rules that manage Hazardous Substances. The focus of the chapter as notified is to manage land use activities involving hazardous substances to reduce risks to people, property, and the environment.
17. The chapter addresses the location and management of significant hazardous facilities, residual risks beyond on-site operations, cumulative and flood-related risks, and protection against reverse sensitivity, maintaining industrial viability and public safety. The chapter takes a spatially targeted, risk-based approach to ensure activities involving hazardous substances provide for social and economic community wellbeing while safeguarding against unintended local effects.
18. The provisions are intended to support the following national legislation:
- a. Hazardous Substances and New Organisms Act 1996 (**HSNO**),
 - b. Health and Safety at Work Act 2015 (**HSWA**),
19. As a result of these two Acts, many existing RMA controls on hazardous substances in the operative plan have potential to appear to duplicate those in place under the HSNO, and HSWA legislation. The hazardous substances provisions in the PDP propose to expressly remove any provisions from the Operative 2013 Kaipara District Plan where they do duplicate other regulations. The intent of the Hazardous Substances chapter in the PDP is to only place additional controls on hazardous substances if they are necessary to control effects under the RMA that are not covered by the HSNO and HSWA Acts.
20. In preparing this report, I have had regard to independent legal advice provided to Kaipara District Council by Tompkins Wake in January 2026. That advice has informed my understanding of the scope of Council’s functions under the Resource Management Act 1991, including the relationship between the RMA, HSNO and HSWA. The Tompkins Wake advice confirmed it is appropriate for Council to include provisions in the PDP for Hazardous Substances. To assist the hearing panel I have attached a full copy of the advice received as Appendix E. While I have taken this advice into account, the recommendations in this report remain my own planning judgement.

Statutory Context

21. This report is prepared under the RMA. At the end of 2025, the Government proposed two new pieces of legislation that the RMA will be replaced with:
 - a. A Natural Environment Act – focused on managing the natural environment
 - b. A Planning Act – focused on planning to enable development and infrastructure.
22. The Government has announced its intention to proceed with the Select Committee process at pace through the first half of 2026, with both bills intended to be passed into law before the 2026 general election. Although the signalled intent is for a quick transition to the new resource management system by the end of 2029, the RMA continues to be in effect until this new replacement legislation is passed, with planning documents prepared under the RMA remaining in effect until new national direction instruments are prepared, standardised plan content developed and new plans prepared (including Regional Spatial Plans, Natural Environment Plans and Land Use Plans).
23. The Operative Kaipara District Plan (**ODP**) is thirteen years old and drafted in a matter that is misaligned with both the National Planning Standards and other district plans in the Northland region (being Whangarei and Far North district plans). Substantive work is required to better align it with other planning provisions in the region, as well as with the style, content and format of plans that are likely to be required under the new planning system. The Schedule 1 hearing process for the PDP is an important part of modernising the district plan and achieving clear and consistent provisions that will better integrate into the new planning system.
24. Once the new legislation is passed, the direction of the new legislation will be considered when making recommendations and alignment will be sought with this direction where it is within the scope of submissions to do so. As the new legislation is not yet in force and the content is not finalised, this section 42A report does not consider the direction contained in the new bills. This approach is consistent with a recent decision from the *High Court in Box Property Investments Limited v The Expert Consenting Panel [2025] NZH 1773* which held that decisions must be made based on the law as it currently stands, not on future legislative changes [at 35].
25. It is noted that the draft Natural Environment Act and the Planning Act include provision for territorial authorities to control hazardous substances as an environmental and land use issue. It is anticipated that Councils will clearly continue to have a role managing hazardous substances under the new planning framework, particularly where effects related to location, compatibility and environmental risk. Generally, the PDP provisions can be considered to be in alignment with the future direction in planning and the proposed modernisation of the structure and approach will assist with transitioning smoothly into the new system.

Resource Management Act 1991

26. The Hazardous Substances section 32 evaluation report provided detail of the relevant statutory considerations with respect to Part 2 of the RMA, and the parts of the National Planning Standards relevant to the Hazardous Substances topic. The National Planning Standards 2019 require hazardous substances provisions to be in a district-wide chapter under 'Hazards and Risks' and the recommended amendments do not alter this placement. It is noted that the National Planning Standards 2019 include a definition for 'Hazardous substance', but not 'Hazardous Facility' or 'Significant Hazardous Facility', allowing Council discretion in this regard.
27. The Ministry for the Environment's Quality Planning website provides guidance on managing hazardous substances under the RMA. The guidance confirms that following the Resource Legislation Amendment Act 2017 (**RLAA**), district plans should focus on residual land-use effects not addressed by HSNO or HSWA, including effects relating to the location of hazardous facilities, compatibility with sensitive activities, and reverse sensitivity. The approach in the PDP is consistent with this guidance.
28. As such, I do not repeat all of the detail of the section 32 evaluation report here. With respect to other higher order documents, I note that:
- a. There are no National Policy Statements or National Environmental Standards directly relevant to the management of hazardous substances. However, the New Zealand Coastal Policy Statement 2010 and the National Policy Statement on Freshwater Management 2020 are indirectly relevant. As hazardous substances can have adverse effects on the coastal environment, water bodies and freshwater ecosystem, the proposed objectives and policies the Hazardous Substances chapter coupled with the other provisions in the Coastal Environment Chapter and applicable zones, ensure that hazardous substances are appropriately managed within these sensitive environments.
 - b. The Regional Policy Statement for Northland (**RPS**) includes relevant provisions for hazardous substances management. Policy 7.1.2 requires district plan controls on new development in identified flood hazard areas to ensure hazardous substances will not be inundated during a 100-year flood event. Policy 7.1.3(g) requires the safe storage of hazardous substances within areas potentially affected by coastal hazards over the next 100 years, including high risk coastal hazard areas. The Natural Hazards chapter contains the relevant objectives, policies, and rules.
29. **Iwi and Hapū Management Plans**

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30. Section 74(2A) of the RMA requires territorial authorities to take into account any relevant planning document recognised by an iwi authority to the extent that its content has a bearing on the resource management issues of the district. Kaipara District contains seven Iwi Authorities.
- a. Te Uri o Hau Settlement Trust
 - b. Te Roroa Whatu Ora Trust
 - c. Te Kawerau ā Maki Iwi Tribal Authority
 - d. Ngāti Manuhiri Settlement Trust
 - e. Te Rūnanga o Ngāti Whātua
 - f. Ngātiwai Trust
 - g. Te Rūnanga Ā Iwi Ō Ngāpuhi
31. Four have been established under Treaty Settlement Claims legislation, with the remaining three established under other legislative mechanisms. These three Iwi Authorities are still progressing their own Treaty settlements with the Crown.
32. Iwi and Hapū Management Plans were referenced in the s32 report. A list of the formally recognised iwi and hapū management plans for the Kaipara District is provided below:
- a. Te Uri o Hau Kaitiakitanga o te Taiao (Te Uri o Hau)
 - b. Nga Ture Mo Te Taiao O Te Roroa (Te Roroa)
 - c. Te Kawerau ā Maki Iwi Management Plan (Te Kawerau ā Maki Iwi Tribal Authority)
 - d. Patuharakeke Hapū Environmental Management Plan 20148 (Patuharakeke)
33. The four iwi management plans (**IHEMPS**) relevant to the Kaipara district were considered as part of developing the PDP, as set out in Section 2.5 of the Section 32 Overview Report. The PDP takes these into account. The s32 reports on Strategic Directions, Sites and areas of significance to Māori, and the Māori Purpose Zone contain the most relevant content, but all chapters of the plan take the IHEMPS into account.
34. **Patuharakeke Hapu Environmental Management Plan 2014** in this plan hazardous substances are addressed with policies requiring the minimisation of hazardous substances, particularly in weed and pest management, and a preference for natural or non-toxic methods. The plan also references the Hazardous Substances and New Organisms Act 1996 as part of the statutory framework imposing Treaty-related obligations on councils.
35. The **Te Uri o Hau Environmental Management Plan 2011** refers to *soil contamination* as a natural hazard that must be avoided, remedied, or mitigated in development and subdivision activities. The plan also refers indirectly to hazardous substances through its inclusion of UNDRIP Article 29, which opposes the storage or disposal of hazardous materials on

indigenous lands without free, prior and informed consent. Hazardous substances are not otherwise regulated or discussed in operational policy terms.

36. The **Te Roroa Iwi Environmental Policy (reviewed 2019, ratified 2021)** this policy does not expressly refer to hazardous substances or hazardous materials. Environmental effects are discussed in general terms, such as pollution and degradation, without specific hazardous substances management provisions.
37. **Te Kawerau ā Maki Iwi Management Plan 1995** this plan does not contain any explicit references to hazardous substances or hazardous materials. Environmental protection is addressed broadly through kaitiakitanga and avoidance of pollution, without specific hazardous substances policies.
38. The Exposure Draft PDP published in 2022 included draft objectives and policies for contaminated land, which drew no comment from iwi. The draft objectives and policies were carried forward to the PDP. In conjunction with Regional Plan controls, the PDP provisions provide the statutory mechanism through which Iwi/Hapu involvement can be considered under RMA ss 6(e), 7(a) and 8 when hazardous substances is part of a proposal. These provisions provide the clear statutory bridge between the iwi management plans and decision-making under the Proposed Kaipara District Plan.

Procedural matters

39. No submitter, prehearing or Clause 8AA meetings have been undertaken on the Hazardous Substances chapter. There has been no further consultation undertaken since notification in April 2025.

Organisation of the report

40. The key issues identified in this report are set out below (arranged by provision):
 - a. Hazardous Substances chapter overview, definitions and general submissions;
 - b. Hazardous Substances objectives;
 - c. Hazardous Substances policies;
 - d. Hazardous Substances rules and matters for discretion; and
 - e. HS-S1 Hazardous substances permitted activity thresholds.

Submissions and further submissions

41. Thirteen original submitters (with 72 individual submission points) and four (4) further submitters (with 47 individual further submission points) were received on the Hazardous Substances

chapter. A summary of submissions and further submissions, together with my recommendations on each, is contained in Appendix A. The original submission and further submission documents can be found on KDC's website.

42. While all submissions have been read and considered in the summary of submissions (Appendix A), responses have not necessarily been written for each individual submission point. To assist the Hearings Panel in achieving clause 10(2) of the First Schedule of the RMA, I have provided reasons for my recommendations to accept or reject submissions and further submissions generally by themes. Responses have been written for individual submissions that raise matters that differ from other submissions within the same thematic group or that request specific amendments to the provisions.

Recommended changes

43. Where I have recommended amending provisions as a result of considering the submissions and further submissions, these are contained as tracked changes in Appendix B. Text that is recommended to be amended is shown as red text for ease of locating, with deletions being struck through, and additional text underlined.
44. No PDP maps require amending in response to submissions on the Hazardous Substances topic.

Section 32AA evaluation report

45. A section 32AA evaluation is only required for changes recommended since notification; if there is no change to the notified version, a section 32AA evaluation is not required. The level of detail in the section 32AA evaluation reports needs to be at a level of detail that corresponds to the scale and significance of the changes recommended. To streamline this report, where a change has been recommended, the corresponding section 32AA evaluation is attached in Appendix C.
46. The following amendments have been subject to section 32AA evaluation in Appendix C:
- a. Amended HS-P1 heading and wording (to be focused on Significant Hazardous Facilities).
 - b. Amended HS-P2 wording (explicit application to significant hazardous facilities); and
 - c. New exemption in HS-R1 for emergency services.
47. These refinements do not alter the overall policy intent evaluated in the original s32 report; they clarify the plan's focus on residual land-use effects and improve workability and certainty for plan users, while responding to the duplication concerns raised in submissions. Given the limited nature of these changes, primarily clarifying existing intent rather than introducing new regulatory requirements, the s32AA evaluations are proportionately brief.

3. Topic 1: Definitions

Introduction

48. There are nine submissions containing 20 submission points (and four further submissions that contain 16 further submission points) that specifically refer to definitions relevant to the Hazardous Substances chapter. Submissions on definitions primarily seek to ensure that the PDP does not duplicate or conflict with controls imposed under the HSNO, HSWA, and associated regulations.
49. The definitions submitted on and detailed below are:
- a. Significant Hazardous Facility;
 - b. Hazardous Facility;
 - c. Residual Risk;
 - d. Hazardous Substance and Hazardous Substances; and
 - e. Cumulative Risk.

Definition of Significant Hazardous Facility

50. The definition in the PDP for Significant Hazardous Facility:

means 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.

51. Silver Fern Farms submitted [287.26] requested the definition be retained as notified.
52. Multiple submitters including Ravensdown Ltd [229.3], Clarus [309.20], and Fuel Companies [311.7], seek deletion or amendment of the definition of 'Significant Hazardous Facility', citing concerns that the definition captures a broader range of activities than intended and results in unnecessary regulatory duplication with the Hazardous Substances and New Organisms Act 1996 (HSNO) and the Health and Safety at Work Act 2015 (HSWA).
53. Fire and Emergency NZ [308.5 and 6] support this definition, subject to relief sought elsewhere.
54. Further submissions were received from New Zealand Agricultural Aviation Association [FS83.21], Fuel Companies (BP, Mobil & Z Energy) [FS98.1, 11, 20, 25, 30] citing concerns about duplication with HSNO and HSWA.
55. A recurring concern is that the definition is triggered solely by quantity exceedance, without regard to the actual level of risk posed by the activity, site-specific controls, or compliance with

national regulatory regimes. In particular, Ravensdown [229.3] submits that the definition effectively treats any site exceeding HS-S1 thresholds as “significant”, regardless of whether the activity would be classified as a Major Hazard Facility under the HSWA. Submitters argue that this creates confusion between RMA planning controls and the HSWA risk-based framework.

56. The definition for Significant Hazardous Facilities refers to exceedance of the quantities specified in HS-S1 and in the provisions is linked to the consenting pathway. It is noted that the term ‘Significant Hazardous Facility’ was not hyperlinked to the definitions section (e.g. in HS-P1.1), and the absence of a hyperlink may have contributed to uncertainty regarding the existence and application of the definition. It is recommended that a hyperlink be included to make it clear it is a defined term.
57. I acknowledge the concern about duplication and lack of clarity with HSNO and HSWA, however specific examples of duplication have not been provided by submitters. HSNO and HSWA primarily regulate on-site operational safety and do not address land-use compatibility, cumulative effects arising from multiple sites, or reverse sensitivity effects. Facilities that store, use, or dispose of hazardous substances above defined quantity thresholds have the potential to generate off-site effects in the event of an incident, including effects on people, property, and the environment beyond the site boundary. These effects are inherently spatial and locational and therefore fall within the scope of a district plan’s land-use control pursuant to section 31(1)(b) of the RMA.
58. To assist me with understanding the appropriateness of the Significant Hazardous Facility and hazardous facilities definitions I sought independent legal advice from Tompkins Wake, attached in Appendix E. The Tompkins Wake advice included discussion on further highlighting the term Significant Hazardous Facilities in the overview and a direct link between the definition Significant Hazardous Facilities and the rules.
59. I consider that the concept of a Significant Hazardous Facility definition remains necessary and appropriate within the PDP and is an integral term in the link to with the consenting pathway. The PDP framework relies on quantitative thresholds to identify when hazardous substance activities may give rise to residual land-use effects, this enables consideration of matters such as location, compatibility with sensitive activities and environments, cumulative effects, and reverse sensitivity. I consider it would be useful to further elevate the term ‘Significant Hazardous Facility’ within the provisions, to enable the focus of the rules to be on activities involving hazardous substances that exceed the permitted activity thresholds in Standard HS-S1. Having the term within the provisions assists with avoiding regulation of minor or domestic-scale activities.

60. As well as ensuring there is a hyperlink in the definition, I also recommend including words in the definition for Significant Hazardous Facility specifically referring to the hazardous substances permitted activity thresholds table. I consider that acronyms can be confusing for plan users so it may assist to have reference to the 'hazardous substances permitted activity table' written in full within the definition. I consider that this would add clarity to the definition and show a clear linkage and consideration of the threshold table. I consider that including the refinements to the definition ensures district plan controls are targeted and proportionate.
61. I have recommended inclusion of wording in the Overview section, discussed further below, to reassure that Council's functions are limited to addressing any gaps not covered by HSNO/HSWA, and the Plan's rules apply only to additional land-use considerations associated with the residual risks from Significant Hazardous Facilities.

Recommendation

62. I recommend retaining the definition of 'Significant Hazardous Facility' and ensuring it is hyperlinked to the definitions section in the eplan. I also recommend that the term is further highlighted in the Overview of the chapter. This will alert plan users to the existence of the definition when looking at the provisions in the hazardous substances chapter.

SIGNIFICANT HAZARDOUS FACILITY

means a site where the aggregate quantity of any hazardous substances of any hazard classification on the site exceeds the quantity specified for the applicable zone in Standard HS-S1 Hazardous substances permitted activity thresholds table in the Hazardous Substances chapter of this plan.

Definition of 'Hazardous Facility'

63. The definition of Hazardous Facility as notified is:

HAZARDOUS FACILITY

Means activities involving hazardous substances and premises at which these substances are used, stored or disposed of. Storage includes vehicles for their transport located at a facility for more than short periods of time and excludes:

- fuel stored in mobile plants,*
- motor vehicles, boats and small engines;*
- the incidental use and storage of hazardous substances in domestic scale quantities;*

activities involving sub-classes not included in the Activity Status Table.

-
64. I note that the last line of the definition contains a formatting error and was not indented with a bullet point in the notified version. My interpretation is to have the last matter '*activities involving sub-classes not included in the Activity Status Table*' listed as a bullet pointed exclusion. I recommend the Panel rectify this formatting error when making its decision.
65. The term 'hazardous facility' is used in the Hazardous Substances chapter as a descriptive term rather than an activity trigger. The similarities with the term Significant Hazardous Facility has caused some confusion. The advice provided by Tompkins Wake, KDC's legal counsel, also note the practical problem: where both "Hazardous Facility" and "Significant Hazardous Facility" exist, they can appear to regulate the same thing and create confusion, particularly because the terms are used in objectives/policies/matters of discretion but not directly in the rules.
66. The relationship between the two terms is hierarchical: 'significant hazardous facility' is a subset of 'hazardous facility'. While 'hazardous facility' broadly captures any activity involving the use, storage or disposal of hazardous substances (subject to the listed exclusions), 'significant hazardous facility' applies only where the aggregate quantity of hazardous substances on a site exceeds the thresholds specified in HS-S1. This distinction is important because it means most hazardous facilities can operate as permitted activities, while only those exceeding the quantity thresholds require resource consent. The term 'significant hazardous facility' then provides the operative threshold for the chapter's consenting pathway.
67. Six submitters - Horticulture New Zealand [140.10], NZ Agricultural Aviation Assoc. [146.6], Ravensdown Ltd [229.4], Silver Fern Farms [287.4], Transpower New Zealand Limited [292.6] and Fuel Companies [311.3] request that the definition of 'Hazardous Facility' be removed entirely from the PDP, they consider the wording is unclear and references matters that duplicate the HSNO and HSWA, and regulations. Fuel Companies also request the proposed definition for "hazardous facility" should be deleted in full, and an amended definition provided for "significant hazardous facility". Horticulture NZ [140.10] request that 'Hazardous Facility' be replaced with a definition of 'significant hazardous facility' (based on the HSWA regulations). Clarus [309.13] request that the definition excludes the gas transmission pipeline (supported by Channel Terminal Services Ltd [FS41.49]). Federated Farmers of New Zealand (Inc) – Northland Province [136.14] supports the definition of hazardous facility and have requested that it excludes the incidental storage and use of agrichemicals, fertilisers and fuel for land based primary production activities.
68. Fire and Emergency [308.5] support this definition, subject to relief sought elsewhere.
69. Further submissions were received from New Zealand Agricultural Aviation Association [FS83.13], [FS83.19] and Fuel Companies (BP, Mobil & Z Energy) [FS98.1,2, 12,23,32] which support removing the definition for Hazardous Facility.

Analysis

70. I acknowledge that the definition of Hazardous Facility could potentially create uncertainty. The definition captures a wide range of activities that are already comprehensively regulated under HSNO and HSWA, including matters relating to storage, handling, transport, and operational safety.
71. Following the RLAA, territorial authorities no longer have a function to control the adverse effects of the storage, use, disposal, or transportation of hazardous substances themselves. Retaining a broad definition of 'Hazardous Facility' can be seen to contain risk by re-introducing regulatory duplication and extending district plan controls beyond land use effects, which would be inconsistent with section 31 of the RMA.
72. The definition of 'hazardous facility' serves as an umbrella term that captures all sites where hazardous substances are used, stored or disposed of. This broad definition supports the reverse sensitivity provisions in HS-O2 and HS-P3, which seek to protect lawfully established hazardous facilities from constraints imposed by sensitive activities. The definition is therefore relevant not just to the consenting pathway, but also to the Plan's approach to land use compatibility and protecting established industrial activities.
73. Relatedly, the s32 evaluation frames the Plan benefits as 'permitting hazardous facilities' (as a class), with higher risk 'significant hazardous facilities' then moving into a consenting pathway, again implying an umbrella category with a higher risk subset.
74. In my opinion, both terms remain useful. Retaining 'Hazardous Facility' and 'Significant Hazardous Facility' as separate definitions reduces potential confusion and clarifies their distinct roles within the provisions. Having reviewed the provisions, I consider that clarity can be improved by: (a) positioning 'hazardous facility' as a broad planning umbrella term used primarily for reverse sensitivity provisions; and (b) making 'significant hazardous facility' the sole operative trigger for the consenting pathway under the HS chapter (linked to the thresholds in HS-S1). This approach ensures each term has a distinct function and avoids any perception of regulatory duplication. This will be consistent with the intent and approach described in the s32 evaluation report where hazardous facilities are generally enabled as permitted activities with the higher risk "significant hazardous facilities" dealt with via consenting mechanisms.
75. Clarus [309.13] requests that the definition excludes the gas transmission pipeline from the definition of 'Hazardous Facility' with a further submission from Channel Terminal Services Ltd [FS41.49] in support. I do not consider it necessary to exempt the existing gas transmission pipeline, as INF-R56 already addresses this activity specifically. The Hazardous Substances rules are focused on the storage, use, and disposal of hazardous substances at facilities rather than substances in transit in the existing gas transmission pipeline. As detailed below, I consider

that including wording in the Overview, directing plan users to the infrastructure chapter, in regard to the gas transmission pipeline, would be a more effective approach.

Recommendation

76. I recommend retaining the definition of 'Hazardous Facility' with an amendment to include reference to significant hazardous facility to reflect that significant hazardous facilities are a subset of the broader term 'hazardous facilities'. The definition for hazardous facility provides a useful umbrella term for reverse sensitivity provisions (HS-P3 and HS-O2), while 'Significant Hazardous Facility' provides the regulatory gateway for consent requirements.
77. The practical application of both Hazardous Facility and Significant Hazardous Facility is further clarified through consequential amendments recommended to the Overview section.
78. I note that the last line of the definition contains a formatting error and has not been indented with a bullet point. I recommend the Panel rectify this.
79. I recommend amending the definition of 'Hazardous Facility' to include the following wording.

Hazardous Facility

Means activities involving hazardous substances and premises at which these substances are used, stored or disposed of. Storage includes vehicles for their transport located at a facility for more than short periods of time. Includes any Significant Hazardous Facility.

And excludes:

- fuel stored in mobile plants,*
- motor vehicles, boats and small engines;*
- the incidental use and storage of hazardous substances in domestic scale quantities;*
- activities involving sub-classes not included in the Activity Status Table.*

Definition of Residual Risk

80. NZ Agricultural Aviation Association [146.12] seeks inclusion of a definition of 'Residual Risk', similar to that used in the Whangārei District Plan to clarify that PDP provisions apply only after compliance with HSNO, and HSWA.

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81. Further submissions were received in support from New Zealand Agricultural Aviation Association [FS83] and Fuel Companies (BP, Mobil & Z Energy) [FS98.3].
 82. I acknowledge the intent of the submissions, which is to clarify that PDP provisions apply only after compliance with HSNO, HSWA, and other relevant legislation. However, I do not consider it necessary or desirable to include a formal definition of 'residual risk' in the PDP. While the term appears in the chapter's explanatory text, it is not used as a term to trigger any rule or standard. I am recommending that the term be used more consistently in the Overview section to clarify the chapter's focus on effects not addressed by other legislation.
 83. The term 'residual risk' has an ordinary and widely understood meaning in planning and risk-management contexts, referring to risk that remains after other controls have been applied. Introducing a definition risks unnecessary complexity and potential inconsistency with evolving regulatory frameworks and guidance. The approach aligns with the Environment Court's guidance that common terms need not be defined if their plain meaning suffices (see e.g. *Auckland Regional Council v Rodney DC [1997] NZRMA 205* regarding common planning terms).
 84. In the RMA context, the Hazardous Substances provisions are clearly directed at managing remaining land-use effects that are not addressed by other legislation. This approach can be adequately articulated through objectives, policies, and explanatory text, without defining the term.

Recommendation

85. I recommend rejecting the submissions seeking the inclusion of a definition of 'Residual Risk' and instead relying on its ordinary meaning as applied through the PDP provisions.

Definition of Hazardous Substance and Hazardous Substances

86. Fuel Companies [311.3] seek retaining the definition of 'Hazardous Substance'. Silver Fern Farms [287.15] has requested to rationalise the duplicated definition of 'Hazardous Substances'. The notified provisions erroneously include a definition for both hazardous substance (singular) and hazardous substances (plural). Transpower New Zealand Limited [292.7] has requested retaining the definition of 'hazardous substance' as notified as it is consistent with the definition in the RMA.
87. The notified PDP has a definition for 'Hazardous Substance' and one for 'Hazardous Substances'. as follows:

'Hazardous Substance' has the same meaning as in section 2 of the RMA as set out below:

includes, but is not limited to, any substance defined in section 2 of the Hazardous Substances and New Organisms Act 1996 as a hazardous substance. The Hazardous Substances and New Organisms Act 1996 defines hazardous substances as meaning, unless expressly provided otherwise by regulations or an EPA notice, any substance—

a. with 1 or more of the following intrinsic properties:

- i. explosiveness:*
- ii. flammability:*
- iii. a capacity to oxidise:*
- iv. corrosiveness:*
- v. toxicity (including chronic toxicity):*
- vi. ecotoxicity, with or without bioaccumulation; or*

b. which on contact with air or water (other than air or water where the temperature or pressure has been artificially increased or decreased) generates a substance with any 1 or more of the properties specified in paragraph a.

88. The definition for 'Hazardous Substances' is as follows:

- *Has the same meaning as in section 2 of the RMA.*

89. I agree that the current drafting results in unnecessary duplication and potential confusion. The RMA definition of hazardous substance (including its reference to section 2 of the HSNO Act) is well established and provides sufficient clarity.

90. I recommend rationalising the definitions so that the PDP includes a single definition that adopts the HSNO Act definition as referenced in the RMA. This definition is consistent with the definition in the National Planning Standards.

Recommendation

91. I recommend deleting the definition for 'Hazardous Substances' and retaining the definition for 'Hazardous Substance', that matches that of the National Planning Standards / RMA.

Definition of Cumulative Risk

92. *The PDP notified version of the Cumulative Risk:*

Means in the context of hazardous substances, the risk posed by a hazardous facility added to or multiplied, or otherwise accumulated by risk from other hazardous facilities in the vicinity where risks of one facility can influence the risk of the other.

93. Fuel Companies [311.1] seek amendment of the definition of 'cumulative risk' so that it applies only to significant hazardous facilities. No further submissions were received for this definition.
94. In principle I disagree with including a definition for cumulative risk specific to significant hazardous facilities. HSNO and HSWA do not assess or manage cumulative off site risk arising from multiple facilities across different land parcels, which is currently captured by the PDP. Further narrowing the definition within the context of the Hazardous Substances chapter, to allow the individually compliant hazardous facilities, to technically fall outside of any regulatory framework when the combined consideration can establish a cumulative effect, could create an unacceptable risk to human health. Where the potential for cumulative risk arises from multiple hazardous facilities located in proximity to one another. it is considered prudent to continue to allow for the cumulative effect of hazardous facilities to be covered by the PDP.
95. Introducing a separate defined term for cumulative risk specific to only significant hazardous facilities would not add clarity and may constrain assessment, attempting to tightly define it might inadvertently exclude certain scenarios.
96. I consider it to be inappropriate to limit the definition of cumulative risk only to significant hazardous facilities as cumulative risk is a technical and context dependent concept.

Recommendation

97. I do not recommend that a defined term cumulative risk specific to significant hazardous facilities be inserted into the proposed district plan.

4. Topic 2: Overview

Introduction

98. This section addresses submissions requesting amendments to the Overview of the Hazardous Substances chapter. It also addresses more generic submissions on the Hazardous Substances chapter where no specific amendments to provisions have been requested.

Overview of the Hazardous Substances chapter

99. NZ Agricultural Aviation Association NZTA [146.15] have requested paragraph 6 of the Overview be deleted and replaced with suggested wording. Ravensdown Limited [229.5] request amendments to the final paragraph, and The Fuel Companies [311.23], request the deletion of the 4th and 6th paragraphs final of the Overview section, considering it to be an unnecessary duplication of existing regulations. The submitters request the chapter deal with

only the matters that are not within the scope of existing legislation such as residual risk and reverse sensitivity.

100. A further submission was received from Fuel Companies [FS98.4] in support of New Zealand Agricultural Aviation Association [146.15].
101. I agree that there is potential to further refine the wording in the Overview and to clearly articulate that the chapter manages residual land-use effects not addressed by HSNO or HSWA. However, I do not support deletion of any of the Overview paragraphs. The Overview provides necessary context for plan users.
102. I suggest amending the Overview section of the hazardous substances chapter to highlight that 'Significant Hazardous Facilities' is a defined term as well as adding additional wording to explain what the definition captures (i.e. activities that exceed the permitted activity thresholds in the hazardous substances chapter). This will alert Plan users to the existence of the definition when looking at the provisions in the hazardous substances chapter and make it clearer that the provisions are intending to deal with activities that exceed the permitted activity threshold.
103. To assist with the common concern regarding duplication of HSNO/HSWA I have suggested included wording in the overview regarding Council's functions are limited to addressing any gaps not covered by HSNO/HSWA.

Recommendation

104. I recommend that the following text is inserted into the Overview of the Hazardous Substances chapter, at the end of the last paragraph:

Significant Hazardous Facility is a defined term in this Plan. It applies to activities involving hazardous substances that exceed the permitted activity thresholds in Standard HS-S1 (Hazardous substances permitted activity thresholds). The provisions of this chapter focus on managing the residual land-use effects of such activities, effects that are not fully addressed by the Hazardous Substances and New Organisms Act 1996 (HSNO) or the Health and Safety at Work Act 2015 (HSWA). These residual effects include:

- *the location of significant hazardous facilities relative to sensitive activities and environments;*
- *cumulative effects arising from multiple facilities;*
- *exposure to natural hazards; and*
- *reverse sensitivity effects on established hazardous facilities.*

The provisions of this chapter are not intended to duplicate controls under HSNO or HSWA. Compliance with those Acts is assumed, and the District Plan controls apply only to land-use effects within Council's functions under section 31 of the RMA

5. Topic 3: General

Introduction

105. While no specific decision is requested by Silver Fern Farms in submission point [287.3], Silver Fern Farms seeks confirmation that the Proposed District Plan recognises the benefits of hazardous substance facilities and provides for their ongoing operation, while appropriately managing reverse sensitivity effects. The submitter also notes that its site meets the definition of a hazardous facility and may meet the thresholds for a significant hazardous facility.
106. This submission from Silver Fern Farms is supported.
107. No specific amendment is required to give effect to this submission point, it is considered that the intent sought by the submitter is already achieved through the amended provisions as detailed in this report. It is considered that the provisions are mindful of and appropriately balance the need to enable the continued operation of existing established facilities with the management of potential adverse effects on the surrounding environment and community.
108. Clarus [309.51] has provided general overall support, and considers the provisions are necessary and appropriate, other than as specifically noted in other submission points. The Fuel Companies [FS98.31] opposed Clarus submission point.

Recommendation

109. I do not recommend any changes related to these two submissions on general matters.

6. Topic 4: Gas pipeline

Introduction

110. Channel Terminal Services Limited [301.15 and 301.28] support retaining the Hazardous Substances chapter. The submitter seeks that the chapter cross-references INF-R56 within the Hazardous Substances chapter to ensure Plan-users are aware of rules relating to the Gas or Petroleum Pipeline Corridor. The submitter also requests an advice note clarifying that the hazardous substances provisions are not intended to apply to existing gas and petroleum pipelines.

111. Fuel Companies (BP, Mobil & Z Energy) [FS98.24] further submitted to support in part to protect the nationally significant fuel pipeline between Marden Point and Wiri in Auckland.

Analysis

112. I note that in the Infrastructure chapter of the PDP rule INF-R56 already provides specific controls for hazardous substances within the gas or petroleum pipeline corridor, with a non-complying activity status for new storage or use of hazardous substances with explosive or flammable properties. The Hazardous Substances Chapter Section 32 evaluation confirms that hazardous substances transported in linear networks (including underground pipelines) are not readily managed through the Activity Status Table approach.
113. I accept that improved cross-referencing would assist Plan users and therefore support the submission.

Recommendation

114. I recommend that the Overview section of the Hazardous Substances chapter include a cross-reference to the Infrastructure chapter (INF-R56) to assist plan users. The recommended wording is:

Activities involving hazardous substances within the Gas or Petroleum Pipeline Corridor are subject to specific controls in INF-R56 of the Infrastructure chapter.

7. Topic 5: Hazardous Substances objectives

Introduction

115. The Hazardous Substances chapter contains two objectives which set out the outcomes sought for activities involving hazardous substances in the Kaipara District. Together, the objectives provide high-level direction for managing the residual land-use effects associated with hazardous substances, while recognising their social, economic, and operational benefits.
116. The objectives are intended to be read in conjunction with the Hazardous Substances policies and rules, which provide the necessary specificity to implement the objectives.
117. HS-O1 seeks to manage risks associated with hazardous substances, so that the risk to people, property and the environment is acceptable, while recognising the benefits of those activities. HS-O2 manages reverse sensitivity so that established activities are not compromised by new sensitive activities.
118. The submissions on the Hazardous Substances objectives are largely supportive, with HS-O1 receiving four submissions in support and HS-O2 receiving three submissions in support. I

agree with the submissions supporting the objectives and consider the PDP needs to provide provisions for the control of hazardous substances. Therefore, I recommend accepting these submissions.

119. There is also one submission requesting HS-O1 to be amended to focus on residual risk [146.16], as discussed below.

Analysis

HS-O1

120. Given the support for the objectives, I only discuss the submission seeking amendments.
121. New Zealand Agricultural Aviation Association [146.16] requests that HS-O1 be amended to focus the objective on the term 'residual risk' and the management of the 'residual risk' associated with the storage or disposal of hazardous substances. New Zealand Agricultural Aviation Association [FS83.14] and Fuel Companies (BP, Mobil & Z Energy) [FS98.5] further submitted in support.
122. I consider that HS-O1 is appropriate and necessary. It reflects the balancing exercise required by section 5 of the RMA by recognising both the benefits of hazardous substances and the need to manage their adverse effects. The objective is framed at a sufficiently high level to allow flexibility in implementation through policies and rules, without duplicating operational controls imposed under HSNO or HSWA.
123. In response to the submission from the New Zealand Agricultural Aviation Association [146.16], I acknowledge the intent of explicitly referencing residual risk. However, I do not consider it necessary or desirable to amend the objective to be based around that term. As discussed in Topic 1 (Definitions), the Hazardous Substances chapter as a whole is clearly directed at managing residual land-use effects after compliance with other legislation. This focus is more appropriately addressed through policy direction and rule thresholds rather than by narrowing the objective wording.
124. Introducing additional terminology into the objective risks reducing clarity and creating unnecessary definitional complexity, without improving its effectiveness.

Recommendation

125. I recommend retaining HS-O1 as notified.
126. I recommend retaining HS-O2 as notified.

8. Topic 6: Hazardous Substances policies

Introduction

127. The Hazardous Substances chapter has three policies (HS-P1, HS-P2, HS-P3) intended to implement the objectives by providing more specific direction as to how the Hazardous Substances objectives will be met. HS-P1 seeks to minimise the risk to the environment (including people and property) and sets out ways this can be achieved. It focuses on locating, designing, operating hazardous facilities and disposing of the hazardous waste appropriately. HS-P2 builds on HS-P1 by providing more direction on the assessment of risk and adverse effects. HS-P3 focuses on reducing potential reverse sensitivity effects on existing lawfully established significant hazardous facilities.

128. Submissions on the Hazardous Substances policies raise three key themes:

- a. first, whether the policies should apply to all 'hazardous facilities' or only 'significant hazardous facilities';
- b. second, concerns about duplication with HSNO and HSWA; and
- c. third, the appropriate scope of reverse sensitivity protections.

Two submitters seek deletion of HS-P2 entirely on duplication grounds, while others seek amendments to clarify terminology and focus the policies on significant hazardous facilities. In terms of HS-P3 (Reverse Sensitivity Effects), one submitter supports retention as notified. Other submitters seek amendments to either delete the word 'significant' so the policy protects all hazardous facilities from reverse sensitivity effects, or to retain the focus on significant hazardous facilities.

129. In summary, the key themes across the policy submissions are a consistent request to clarify the relationship between 'hazardous facilities' and 'significant hazardous facilities'; concerns about regulatory duplication with HSNO and HSWA; and differing views on whether reverse sensitivity protections should apply broadly to all hazardous facilities or be limited to significant hazardous facilities

Analysis

HS-P1

130. Fire and Emergency New Zealand [308.37] supports the retention of HS-P1 and supports minimising risks to the environment associated with hazardous facilities. New Zealand Agricultural Aviation Association [146.17] considers that the focus should be on hazardous substances use, storage and disposal as opposed to hazardous facilities as defined in the PDP. Ravensdown Limited supports HS-P1 on the proviso that the definition of 'significant hazardous facilities' is deleted [229.3], [229.8]. A consequential amendment to HS-P1.1 would be required.

- Fuel Companies (BP, Mobil & Z Energy) [311.26] seeks amendments to refocus the policy towards Significant Hazardous Facilities and provide greater clarity on the terms ‘sensitive activities’ and ‘sensitive environments’. The submission expresses concern about ambiguity and duplication of controls under HSWA.
131. A further submission was received from New Zealand Agricultural Aviation Association [FS83.15] and Fuel Companies (BP, Mobil & Z Energy) [FS98.13] opposing the Ravensdown Ltd submission point. A further submission was received from Fuel Companies (BP, Mobil & Z Energy) [FS98.6] supporting in part New Zealand Agricultural Aviation Association submission point [146.17] to amend HS-P1.
132. A further submission was received from Fuel Companies (BP, Mobil & Z Energy) [FS98.13] opposing the Fire and Emergency New Zealand submission point.
133. HS-P1 – Hazardous Facilities, directs that activities involving hazardous substances are located, designed, operated, and managed to minimise risks to people, property, and the environment, while recognising the benefits of those activities.
134. I consider that this policy is appropriate and necessary. It provides overarching direction for managing residual land-use effects without prescribing operational controls. The policy appropriately recognises that hazardous substances contribute to social, cultural, and economic wellbeing, while ensuring that the risks generated by hazardous facilities are managed to acceptable levels.
135. Some submitters sought amendments to clarify that the policy should focus on significant hazardous facilities or to remove perceived overlap with HSNO and HSWA. I consider that the policy, when read alongside the definitions and rules, does not duplicate other legislation and remains within Council’s land-use planning role. I agree that the provision could be refined to make it more specifically focused on significant hazardous facilities and that this would assist with ease of using the provisions.
136. Given the permitted activity status for the use, storage or disposal of any hazardous substances in quantities that do not exceed those stated in HS-S1, I consider that it is appropriate for HS-P1 to address significant hazardous facilities rather than the smaller scale activities. As such, I recommend changing the heading of the policy HS-P1 to be ‘Significant Hazardous Facilities’ to further make it clear that the policy primarily applies to ‘Significant Hazardous Facilities’, being those that exceed the threshold table. By focusing HS-P1 to significant hazardous facilities, the PDP ensures it is only guiding activities that warrant RMA oversight. This maintains consistency with s31 functions and avoids regulating what HSNO/HSWA already cover on a routine level. I also recommend that the term Significant Hazardous Facilities is underlined and hyperlinked to the definitions on the website to ensure it is clear there is a definition in the District Plan for

'Significant Hazardous Facilities'. This will assist the understanding that the policy addresses land-use effects only and does not regulate operational safety matters addressed under HSNO or HSWA.

137. Recommendation:

I recommend inserting the word "significant" into HS-P1 heading and ensure that it is hyperlinked to make it clear that there is a district plan definition for significant hazardous facilities available, which refers to activities where the quantity of hazardous substances exceed the permitted thresholds.

HS-P1 Significant Hazardous Facilities

Significant Hazardous facilities must minimise the risk to the environment (including people and property) by:

- 1. Siting new significant hazardous facilities in appropriate locations that are separated from incompatible activities, such as sensitive land use and infrastructure, and sensitive environments;*
- 2. Designing, constructing and operating significant hazardous facilities in a manner that ensures the adverse effects of the operation or an accidental event involving hazardous substances can be contained within the site; and*
- 3. Disposing hazardous wastes to authorised disposal or treatment facilities that have appropriate management systems in place and avoiding the storage, processing or disposal of hazardous wastes in sensitive environments.*

HS-P2

138. New Zealand Agricultural Aviation Association [146.18], Fuel Companies (BP, Mobil & Z Energy) [311.27] and Silver Fern Farms [287.36] request that HS-P2 be replaced with wording focused on significant hazardous facilities. Fuel Companies (BP, Mobil & Z Energy) [311.27] also seek deletion of references to 'significant quantities. Ravensdown Limited [229.9], requests deleting HS-P2 entirely and consider the matters are already dealt with under the existing HSNO and HSWA regulations.

139. A further submission was received from Fuel Companies (BP, Mobil & Z Energy) [FS98.7] supporting New Zealand Agricultural Aviation Association [146.18].

140. A further submission was received from Fuel Companies (BP, Mobil & Z Energy) [FS98.21] supporting Silver Fern Farms submission [287.36] submission point.

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141. HS-P2 provides more specific direction for assessing the risks associated with facilities that use, store, or dispose of hazardous substances in quantities that may give rise to residual land-use effects.
142. In my opinion, the policy plays an important role in directing decision-makers to consider the nature and scale of potential off-site effects, including cumulative risk and the influence of natural hazards. These matters are not comprehensively addressed under HSNO or HSWA and are relevant to land-use planning decisions.
143. Several submitters sought deletion of this policy or requested that it be narrowed to focus explicitly on significant hazardous facilities. I agree that clarity is required to ensure the policy is applied only where appropriate and consider that such clarification can be better achieved through consistent use of definitions and reference to the threshold-based rules. This approach will align with my recommendation for HS-P1.
144. To avoid ambiguity the policy should be focused on significant hazardous facilities, as identified through exceedance of the PDP's threshold tables.

Recommendations

145. I recommend that the wording of HS-P2 is amended to explicitly apply to significant hazardous facilities as follows:

HS-P2 Assessment of risk

~~Ensure facilities for the use, storage or disposal of hazardous substances in significant quantities~~ **Ensure that significant hazardous facilities** identify and assess potential adverse effects, (including cumulative risk and potential effects of identified natural hazards), to prevent unacceptable levels of risk to human health, safety, property, and the natural environment.

HS-P3 – Reverse Sensitivity Effects

146. HS-P3 addresses reverse sensitivity effects by directing that new sensitive activities be managed to avoid compromising the operation of lawfully established significant hazardous facilities.
147. Submissions sought both expansion and narrowing of this policy. Some submitters requested that the policy apply to all hazardous facilities, while others sought to remove references to 'significant'. New Zealand Agricultural Aviation Association [146.19] supports this policy, and the separation of sensitive land uses from lawfully established significant hazardous facilities. Ravensdown Limited [229.10] and Silver Fern Farms [287.5] both request amending HS-P3 to remove reference to significant hazardous facilities. Silver Fern Farms consider this will align

- with HS-O2 and avoid limiting protection. Fuel Companies (BP, Mobil & Z Energy) [311.28] supports HS-P3 with minor amendments to terminology to clarify reverse sensitivity effects on lawfully established significant hazardous facilities.
148. A further submission was received from Fuel Companies (BP, Mobil & Z Energy) [FS98.14] opposing Ravensdown Limited's submission point [229.10].
149. I do not support extending this policy to all hazardous facilities. Reverse sensitivity provisions must be proportionate and targeted. Applying reverse sensitivity controls broadly would risk constraining development unnecessarily and would be inconsistent with the PDP's threshold-based approach. Limiting the policy to lawfully established significant hazardous facilities appropriately balances the need to protect established activities and enabling new development and is consistent with the intent of the provisions.
150. Reverse sensitivity is a recognised land-use planning issue, and the policy does not regulate hazardous substances themselves. Instead, it manages the effects of land-use incompatibility, which is within the Council's RMA functions. This approach is consistent with national planning guidance, which identifies preventing sensitive activities near major hazard facilities as a key way RMA plans can manage risk.
151. As such, I do not recommend any wording changes to HS-P3.

Recommendations

152. I recommend retaining HS-P3 as notified to be focused on lawfully established significant hazardous facilities.

9. Topic 7: Hazardous Substances rules, matters for discretion and standards

Introduction

153. The Hazardous Substances chapter contains Rules HS-R1 to HS-R5. The rules establish when activities involving hazardous substances are permitted and when resource consent is required. Activity status is primarily triggered where the aggregate quantity of hazardous substances on a site exceeds the applicable zone threshold in Standard HS-S1. Where consent is required, the assessment is guided by Matters of Discretion HS-MAT1 and HS-MAT2, which focus on residual land-use effects.
154. The submissions on the rules are generally supportive of having rules, although multiple submitters request amendments to terms to provide clarity with perceived duplication of the HSNO and HSWA regulations. Submitters also identified concern with the following:

- a. The scope of rules applying to everyday rural activities, such as fertiliser storage;
- b. The appropriateness of quantity thresholds and whether they create unnecessary regulatory burden;
- c. Whether the rules should apply only to significant hazardous facilities;
- d. Alignment with best-practice from other district plans; and
- e. Ensuring residual risk, cumulative risk, and reverse sensitivity are addressed where relevant.

Analysis

All rules

155. Northpower Limited and Northpower Fibre Limited [283.3 and 283.118] request deleting all the rules in their entirety, retaining only objectives and policies. Fuel Companies (BP, Mobil & Z Energy) support in part the Northpower Limited and Northpower Fibre Limited [283.3 and 283.118] request, as request the suite of provisions be focused on significant hazardous facilities.
156. I do not agree with Northpower's request to delete all rules and rely solely on objectives and policies. Under section 76(1) of the RMA, a district plan may include rules to achieve the objectives and policies of the plan. While rules are not mandatory, they provide certainty for plan users and decision-makers about when consent is required. While Whangārei District Council has adopted that approach to not include any rules, it is not widely applied nationally. Many district plans (including Far North, New Plymouth and Napier) retain rules to manage residual land-use effects. Retaining a rules framework provides certainty and implements the objectives and policies in a transparent and proportionate manner and this is an approach I support.

HS-R1

157. HS-R1 establishes a threshold-based permitted activity framework, where activities remain permitted unless quantities exceed the specified thresholds in Table HS-S1, at which point a restricted discretionary consent is required.
158. Silver Fern Farms [287.6], [287.37], request that HS-R1 be retained as notified. The six other submissions requesting amendments to HS-R1 are as follows:
 - a. New Zealand Agricultural Aviation Association [146.20] opposes the inclusion of a quantity table and requests the deletion of HS-R1.1.a. to avoid duplication of regulations.
 - b. Ravensdown Limited [229.11] requests amending HS-R1 to instead have a permitted activity rule for these activities within all relevant zones is appropriate.

- c. Silver Fern Farms [287.37] requests that HS-R1 be retained as notified and consider it appropriate to provide a permitted allowance for hazardous substances. It also considers it appropriate to provide for activities that exceed the specified thresholds as a restricted discretionary activity as the effects of an exceedance of permitted volumes can be subject to a confined assessment of risk.
- d. Fire and Emergency New Zealand [308.38] is supportive of retaining HS-R1 as notified subject to amendments to HS-S1.
- e. Clarus [309.52] requests amendment of HS-R1 to include a comment to make it clear that HS-R1 only applies where the hazardous facilities are not addressed already by a rule in this section.
- f. Fuel Companies (BP, Mobil & Z Energy) [311.29] requests that HS-R1 be deleted as it considers there is duplication with other regulations.

159. Further submissions were received by a number of submitters, both in support and opposition.

Analysis

160. As I discuss earlier in this report, duplication with existing regulations is not the intent of the HS Rules or Hazardous Substances provisions. The PDP provisions manage residual risk/reverse sensitivity, while HSNO/HSWA regulate operational safety. The Hazardous Substances chapter manages residual land-use effects, including location, compatibility with sensitive activities and environments, cumulative effects, exposure to natural hazards, and reverse sensitivity.
161. The focus of the rule HS-R1 is on land-use effects rather than re-regulating substances, and in particular the land-use effects on the sensitivity of the receiving environment. This rule has generated multiple submissions, and it is considered that HS-R1 could benefit from minor refinement to enhance clarity and readability.
162. In response to submissions asserting duplication, I accept that HSNO and HSWA comprehensively regulate on-site operational safety. However, the HS-R1 rule does not regulate substances themselves; it regulates land use when quantities exceed thresholds, and where residual effects may arise. HSNO and HSWA do not address land-use compatibility (i.e. sensitive environments), cumulative effects, or reverse sensitivity. I therefore do not consider that the proposed rule is a duplication of other regulations.
163. Clarus [309.52] seeks clarification that the rule applies only where effects are not addressed elsewhere in the PDP. I consider this concern can be addressed through the structure and wording of the rule, rather than by way of complete deletion.

164. It is not the purpose of HSNO and HSWA to address nor manage the conflicts between the uses. The rule framework enables and achieves the objectives HS-O1, HS-O2 and policies HS-P1, HS-P2 and HS-P3 and to ensure the potential risks of hazardous substances are adequately addressed in a manner consistent with section 17 of the RMA. While HSNO and HSWA comprehensively regulate hazardous substance classification, handling and workplace safety, those regimes do not provide a land-use planning framework for matters such as location relative to sensitive environments/activities, reverse sensitivity, and cumulative effects. HS-R1 does not regulate operational compliance with hazardous substances controls; rather, it uses HS-S1 threshold exceedance as a practical trigger to assess whether land-use effects may be unacceptable in the receiving environment. On that basis, and subject to the clarifying amendments recommended to HS-R1 and the chapter Overview amendments, I do not consider the framework to be duplication.
165. In my opinion it would be helpful if the rules were refined to explicitly reference the 'threshold table (HS-S1)', and the non-compliance trigger is reworded. This will assist the readability and consistency with the policy wording.
166. Fire and Emergency New Zealand [308.39] seeks amendments to HS-S1 to exempt emergency service facilities and operations. Emergency services must act quickly to protect life, property, and the environment during hazardous substance incidents. The RMA seeks sustainable management of resources while safeguarding people and communities. Exempting emergency services aligns with this purpose by enabling rapid, effective response to emergencies without unnecessary regulatory barriers. Emergency service facilities operate under strict national standards and protocols. Fire and Emergency NZ is trained and equipped to manage hazardous substances safely, reducing the likelihood of environmental harm compared to general industrial use. Without this exemption, Fire and Emergency NZ would face an impractical administrative burden for routine storage and temporary emergency operations.
167. Adding an advice note has no statutory weight, so will not provide the relief sought by Fire and Emergency New Zealand [308.39]. As an alternative I suggest an exemption is included in HS-R1. This change ensures the PDP supports emergency preparedness and response while maintaining environmental protections through existing national regulations.

Recommendation

168. Having reviewed HS-R1 and the submissions, I recommend the following wording:

HS-R1 The use, storage or disposal of any hazardous substances

All zones 1. Activity status: Permitted

Where:

- a. *The aggregate quantity of any hazardous substance of any hazard classification on a site does not exceed the ~~quantity~~ applicable threshold specified for the applicable zone in the HS-S1 Hazardous substances permitted activity thresholds table.*
 - b. *The hazardous substances are at an emergency services facility or activity associated with emergency services.*
2. *Activity status when compliance not achieved: Restricted Discretionary*
 3. *Matters over which discretion is restricted:*
 - a. *HS-MAT1; and*
 - b. *HS-MAT2*

HS-R2

169. HS-R2 regulates Radioactive Materials. Only one submission was received, which was from Ravensdown Limited [229.12] requesting relocation of the rule to the Rural zone chapter.
170. Radioactive materials raise district-wide land-use effects and are appropriately addressed through a district-wide rule. In my view, relocating the rule to a zone chapter would narrow the rule to only apply to a single zone. Retaining the rule in the Hazardous Substances chapter is consistent with the PDP's structure complies with the and National Planning Standards: hazardous substances. It is a more efficient approach to have radioactive substances addressed in one place.

Recommendation

171. I recommended to Retain HS-R2 as notified.

HS-R3 Fertiliser Storage.

172. HS-R3 enables fertiliser storage as a permitted activity in the General rural zone, subject to conditions relating to fertiliser sub-class, distance from a watercourse, duration of storage and that it is not intended for retail sale. The rule support rural production activities while managing residual land use effects not addressed by HSNO and HSWA.
173. Ravensdown Limited [229.12] requests that HS-R3 be deleted in its entirety. Ravensdown state that the rule effectively relates to 'on-farm' storage of fertiliser products, which are regulated under the HSNO and HSWA, and associated regulations. Consequently it considers that the rule unnecessarily duplicates regulatory requirements with no specific benefit for the environment (or reduction of adverse effects or risks). Ravensdown request that if this rule is

retained, it should be placed in the rural zone provisions of the PDP with conditions (a) and (c) deleted.

174. New Zealand Agricultural Aviation Association [146.21] requests HS-R3 be deleted as the on-farm storage of fertilisers is regulated under HSNO and HSWA, and other associated regulations. Mangawhai Estates Partnership [178.6] considers that multiple supervision of fertiliser in the General Rural Zone is a waste of money.
175. Horticulture New Zealand [140.24] requests deletion of HS-R3.1.c or addition of the following text: *'Fertilisers may be stored on-site provided they are contained in a secure, weatherproof structure or location that prevents leaching, runoff, or contamination of water bodies, and are managed in accordance with best practice environmental standards.'* Horticulture New Zealand states that fertiliser is bought in bulk and stored for use as required. It considers that restricting this practice does not reflect standard rural practices and is inconsistent with industry-recognised good management.
176. A further submission was received from New Zealand Agricultural Aviation Association [FS83.12] opposing in part the submission from Horticulture NZ [140.24], as New Zealand Agricultural Aviation Association [FS83.12] requests HS-R3 be deleted in its entirety.
177. A further submission was received from Royal Forest and Bird Protection Society of New Zealand Incorporated [FS93.85], opposing Horticulture NZ Ltd submission point [140.24] on the basis that the matters as set out require assessment and are not appropriate as a permitted activity standard. Royal Forest and Bird Protection Society of New Zealand Incorporated consider this could result in adverse effects on indigenous biodiversity.

Analysis

178. I acknowledge submitters' concerns that fertiliser storage is regulated under HSNO and HSWA. However, those regimes do not address off-site land-use effects, including risks to waterways, sensitive environments, or flood-prone land; an issue that was identified in the further submission of Royal Forest and Bird Protection Society of New Zealand Incorporated.
179. The RPS requires district plans to manage hazardous substances in flood hazard areas. Bulk fertiliser storage in such locations presents a risk of contamination during flood events, and this is effectively managed by HS-R3.1.b. which establishes a minimum setback from watercourses. The rule is targeted at larger-scale storage and does not regulate ordinary farming activities involving small quantities. This is because quantities exceeding these thresholds would meet the definition of a significant hazardous facility and therefore trigger a different consenting pathway under the HS chapter rules.

180. Thresholds in HS-S1 vary by zone to reflect the sensitivity of the environment, ensuring proportionality and avoiding unnecessary regulation. During consultation, concerns were raised about the use and storage of fertilisers and agrichemicals, particularly in rural areas and near sensitive environments. Including a rule which manages fertiliser storage responds to those concerns and ensures risks are managed consistently across the district.
181. Ordinary farming activities involving small quantities of fertiliser remain permitted, provided they comply with the four standards in HS-R3.1. Regulation applies only when quantities exceed thresholds or do not comply with the standards that could create significant off-site risk. This approach avoids unnecessary regulation while addressing high-risk scenarios.
182. I recommend retaining the rule in the Hazardous Substances chapter because hazardous substances can be stored in other zones too. Keeping it in one chapter maintains a coherent and consistent approach to hazardous substances.
183. Ravensdown Limited [229.12] seeks deletion of standards (a) and (c) if HS-R3 is to be retained. I recommend retaining both standards. Standard (a) limits the rule to fertiliser sub-classes 6.3, 6.4 and 6.5 (oxidising substances, which present specific environmental risks if released near waterways), ensuring the permitted pathway applies only to substances with comparable risk profiles. Standard (c) limits storage duration to 28 days, which reflects the temporary nature of on-farm fertiliser storage for seasonal application. The standard ensures prolonged stockpiling of bulk fertiliser, which presents greater cumulative risk, requires consent. Both standards address land-use effects not regulated by HSNO or HSWA and are necessary to implement HS-P1 and HS-P2.

Recommendations

184. I recommend retaining the wording of HS-R3 as notified.

HS-R4

185. HS-R4 permits the use, storage and disposal of hazardous substance subclasses 1.4, 1.5, 1.6, 6.1D, 6.1E, 9.1D and 9.2D. HS-R4 covers hazardous substances that pose lower-level risks compared to more dangerous subclasses, which is why they are permitted without additional consent requirements under this rule. The subclasses refer to the established hazard classifications under the Globally Harmonised System (GHS7) and the previous HSNO system.
186. New Zealand Agricultural Aviation Association [146.22] considers the use, storage and disposal of hazardous substances is already regulated under the HSNO and HSWA (and other associated regulations) and that HS-R4 is, therefore, considered unnecessary and likely to create confusion and regulatory overlap. Ravensdown Limited [229.13] and Fuel Companies (BP, Mobil & Z Energy) [311.30] request that HS-R4 be deleted in its entirety.

187. Further submissions in support were received from New Zealand Agricultural Aviation Association [FS83.23] and Fuel Companies (BP, Mobil & Z Energy) [FS98.9 and 16] in support.

Analysis

188. Upon review, the rule's structure may initially appear complex, however its function is to expressly permit lower-risk activities. It is my understanding that HS-R4 enables these lower-risk categories because they pose minor risk. The substance subclasses include:

Class 1.4, 1.5, 1.6: These are explosive subclasses:

1.4: Explosives with no significant blast hazard (e.g., small arms ammunition).

1.5: Very insensitive explosives with a mass explosion hazard.

1.6: Extremely insensitive articles with no mass explosion hazard.

Class 6.1D and 6.1E: These relate to acute toxicity:

6.1D: Substances with low acute toxicity (harmful if swallowed, inhaled, or absorbed).

6.1E: Substances with very low acute toxicity (slightly harmful).

Class 9.1D and 9.2D: These are eco-toxic classes:

9.1D: Substances hazardous to the aquatic environment (low level).

9.2D: Substances hazardous to soil organisms (low level).

189. As a Plan user I find this to be a useful assertion to clearly permit these low-risk activities and reduce regulatory burden by expressly allowing them. I think that having a rule that explicitly permits certain things can be helpful to avoid doubt. If HS-R4 were deleted, technically those activities would still be permitted (because not captured by R1 thresholds or any other rule), but Plan users may not realise that and could become confused. Including HS-R4 provides clarity and can be seen as a user-friendly approach.

Recommendation

190. HS-R4 applies to lower-risk hazardous substance subclasses and permits their use, storage, and disposal. The rule does not impose additional controls; rather, it provides clarity and certainty that these activities are permitted under the PDP.

191. I recommend retaining the wording of HS-R4.

HS-R5

192. HS-R5 regulates the storage of fuel for retail sale within a service station as a controlled activity in the General rural zone, Commercial zone and industrial zones so long as the activity complies

with the maximum volumes listed. For most other zones, the activity status starts at restricted discretionary.

193. Fuel Companies (BP, Mobil & Z Energy) [311.31] request to delete this rule in its entirety and focus the rules on 'Significant Hazardous Facilities.' The Fuel Companies are concerned that all petrol stations would require a resource consent. New Zealand Agricultural Aviation Association [FS83.24] support the deletion of HS-S1.

Analysis

194. The Fuel Companies are correct in that every service station would require a resource consent, with the activity status starting at controlled in the General rural zone, Commercial zone and industrial zones. Where the volumes are exceeded, the activity status for the General rural zone and industrial zones cascades to restricted discretionary. Fuel storage at service stations often involves quantities that exceed permitted thresholds and can generate significant off-site effects, including fire risk, explosion risk, and contamination of land and water. Fuel is classified as a flammable liquid under HSNO hazard classes. Large volumes stored at service stations create a higher potential for fire or explosion compared to ordinary activities. These risks are not fully addressed by workplace safety regulations because they focus on on-site management, not locational effects beyond the site boundary, cumulative effects, or proximity to sensitive activities.
195. Service stations are often located near sensitive activities such as residential areas, schools, childcare centres or commercial centers and this is reflected in the more stringent activity status for General residential zone, Rural lifestyle zone, Open space zone, Natural open space zone, Sport and active recreation zone, Māori purpose zone, and Hospital zone. In the event of an accident, the consequences could be severe for people and property nearby. HSNO and Health and Safety at Work regulations do not require consideration of cumulative effects, reverse sensitivity, or proximity to sensitive environments. The PDP fills this gap by requiring resource consent for all fuel retail storage. The PDP provisions ensure that these facilities are appropriately located and assessed for risk.
196. Given the risk from storing fuel on site, I consider it is appropriate that a resource consent is required for all volumes, with the activity status then reflecting the volume and the sensitivity of the surrounding environment. I note that the activity status for lesser volumes of fuel is controlled in the less sensitive zones, for which a resource consent must be granted.
197. I appreciate the point made by the Fuel Companies, that storage of fuel may also be captured by HS-R1 and its requirement to comply with the quantities specified in HS-S1. Where an activity is subject to both the Hazardous Substances chapter rules and another more specific rule (such as in the Infrastructure chapter), the more specific rule will apply in accordance with

standard plan interpretation principles. Therefore, I do not recommend changing the wording in HS-R5.

198. On reading through HS-R5 there is a missing a clear escalation pathway between the controlled activity baseline and the higher activity status when thresholds are exceeded or standards are not met. In the first part of HS-R5 (General Rural, Commercial, Light and Heavy Industrial zones), a controlled activity status applies where specified fuel volume limits are met, and a restricted discretionary status applies when compliance is not achieved.
199. By contrast, the second part of HS-R5 (more sensitive zones) explicitly escalates from Restricted Discretionary to Discretionary, however, there is no rule that states when the activity becomes Discretionary, for example where fuel volumes exceed the stated maximums, or where storage is proposed outside underground tanks, or where effects are materially different from those anticipated for a controlled activity. This creates internal inconsistency and uncertainty about when a proposal becomes Discretionary rather than Restricted Discretionary.
200. I think this may have been an error when notifying the PDP. The Panel may want to consider correcting this, as it relates to General residential zone, Rural lifestyle zone, Open space zone, Natural open space zone, Sport and active recreation zone, Māori purpose zone, and Hospital zone. As notified throughout, the PDP there are multiple activity statuses, starting with restricted discretionary and cascading to discretionary upon non-compliance with the standards, however in HS-R5 for the more sensitive zones in the District there are no standards listed with which to comply that link to discretionary upon. In addition, not all zones are listed and three of the special purpose zones are missing.

Recommendation

201. I recommend the standards and matters for control for the controlled activities in HS-R5 be replicated for the restricted discretionary activity in the more sensitive zones currently listed as '*General residential zone, Rural lifestyle zone, Open space zone, Natural open space zone, Sport and active recreation zone, Māori purpose zone, and Hospital zone*'. I recommend amending HS-R5 to include reference to all the zones in the District including the special purpose zones, this may need to be updated on completion of the PDP.
202. I recommend retaining the wording of HS-R5 as notified for the General rural zone, Commercial zone, Light and Heavy industrial zones, the activity status provides certainty for smaller volumes of fuel in less sensitive environments, while greater volumes and/or in more sensitive zones have a more stringent activity status.

Matters for Discretion Hazardous Substances-MAT 1 and Hazardous Substances-MAT 2

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203. The PDP includes two key matters of discretion HS-MAT 1 Location and design of hazardous facility and HS-MAT 2 Risk associated with the hazardous facility and transportation. HS-MAT1 Location and design of hazardous facility addresses:
- a. Whether the facility is appropriately located to avoid or mitigate risks to sensitive activities and environments;
 - b. Minimisation of adverse effects; and
 - c. Operational or functional need for the location (important for risk-based decision-making in sensitive areas).
204. HS-MAT2 Risk Associated with the hazardous facility and transportation. HS-MAT2 addresses the risk assessment and management aspects of hazardous facilities, including cumulative effects, transportation risks, natural hazard interactions, and environmental protection measures. It complements HS-MAT1 (which focuses on location and design) by ensuring consent applications adequately assess and manage residual risks not covered by HSNO or HSWA.

Analysis

205. The matters in HS-MAT1 and HS-MAT2 are RMA-specific and complement national legislation by addressing residual risks, reverse sensitivity, and location-specific effects that HSNO and HSWA do not cover. They enable tailored consent conditions without imposing blanket restrictions. Having specified matters of discretion that align with policies ensures that when a consent is triggered, the council can only consider the relevant residual-risk factors, not an unlimited spectrum of matters.
206. Fuel Companies (BP, Mobil & Z Energy) [311.32 and 311.33] consider that the current matters of discretion are unnecessary and should be risk-based rather than operational. The submission infers that both HS-MAT1 and HS-MAT2 duplicate national legislation (HSNO, HSWA), and that they should be deleted or rewritten to focus on 'Significant Hazardous Facilities' and consider that the current wording includes operational considerations that do not relate directly to risk management.
207. HSNO and HSWA set minimum standards for safety, but they do not address site-specific environmental effects under the RMA. For example, containment measures to prevent off-site contamination during floods or earthquakes may require additional conditions beyond workplace safety standards. Including these matters ensures integrated management of risks.
208. The matters of discretion are important for risk-based decision-making. If a hazardous facility is proposed in a sensitive area, demonstrating operational necessity helps justify why alternative,

lower-risk locations are not feasible. It supports efficient land use planning and minimises exposure to natural hazards or reverse sensitivity conflicts.

209. The thresholds in HS-MAT1 and HS-MAT2 are derived from risk-based models used nationally and internationally (e.g., NSW HIPAP No. 4) and adapted for New Zealand conditions. They aim to balance practical needs relating to hazardous substances with public safety and environmental protection, avoiding unnecessary regulation for small-scale use while managing significant risks. Having specified matters of discretion that align with policies ensures that when a consent is triggered, the Council can only consider the relevant residual-risk factors specified in the matters of discretion. The standards in HS-MAT1 and HS-MAT2 provide clear guidance for consent decision making where hazardous substances trigger land use consent.
210. The standards in HS-MAT1 and HS-MAT2 enable tailored conditions to manage residual risks without imposing blanket restrictions. Hazardous facilities can create localised adverse effects (e.g., spills near waterways, sensitive activities). The PDP approach provides flexibility, if thresholds are exceeded or sensitive locations are involved, matters of discretion allow tailored conditions to mitigate risk.

Recommendation

211. HS-MAT1 and HS-MAT2 address RMA specific landuse effects, including location, cumulative risk, reverse sensitivity, and exposure to natural hazards. These matters are not intended to HSNO or HSWA and provide appropriate guidance for consent decision-making. I recommend retaining both matters as notified.

10. Topic 8: HS-S1 Hazardous substances permitted activity thresholds

Introduction

212. The standards contained in HS-S1 Hazardous substances permitted activity thresholds set out quantities of hazardous substances, that when the quantities are exceeded in specific zones the requirement to obtain a resource consent is triggered. These thresholds have been calibrated to reflect acceptable risk levels for different land use sensitivities (e.g., industrial vs. residential zones) and have been developed from international standards. In the early 2000's the activity status table was developed from a commonly used (Hazardous Facilities Screening Procedure which included undertaken calculations) as a simpler more user-friendly alternative. The HS-S1 - Hazardous substances permitted activity thresholds directly states permitted quantities for hazardous substances rather than requiring calculations. The HS-S1 - Hazardous substances permitted activity thresholds table provides a clear link between substance

quantities and activity status, making it easier for applicants and planners to determine whether consent is required.

213. New Zealand Agricultural Aviation Association [146.23]. Ravensdown Limited [229.14] Fuel Companies (BP, Mobil & Z Energy) [311.34], oppose HS-S1 entirely. The submitters considered HS-S1 duplicates HSNO and HSWA regulations and creates unnecessary regulatory overlap, Fonterra Limited [310.21] seeks exemptions to HS-S1 thresholds for its Maungaturoto Dairy Factory and have stated that as the Maungaturoto Dairy Factory site already complies with HSNO and HSWA; additional PDP controls are unnecessary. Fire and Emergency NZ [308.39] seeks amendment to HS-S1 to include an exemption for emergency service facilities and operations as firefighting foam is stored in volumes exceeding HS-S1 limits; therefore, exemption would avoid unnecessary consents during emergency operations.
214. Further submissions from New Zealand Agricultural Aviation Association [FS83.24], and the Fuel Companies (BP, Mobil & Z Energy) [FS98.10 and FS98.17] are in support of the submissions seeking to delete rule HS-S1.

Analysis

215. The intent of HS-S1 is to provide a trigger for when a resource consent is required. The HSNO and HSWA national legislation focuses on workplace safety and handling of hazardous substances, but does not consider reverse sensitivity, cumulative effects, or location-specific risks (e.g., proximity to sensitive environments or incompatible land uses). HS-S1 necessarily adopts HSNO/EPA hazard classifications and aggregation principles to function as a simple, nationally consistent screening method. I accept submitter concerns that on appearance this may seem similar to HSNO.
216. The purpose of adopting this classification method is not to reimpose HSNO compliance, but to use established language for specialist subject matter to provide a clear trigger for landuse assessment where the scale of hazardous substance activity may give rise to residual effects in the receiving environment. The use of the established terminology and classifications is considered to be complementing and not duplicating the national regulations.
217. Section 31(1)(b)(ii) of the Resource Management Act 1991 provides territorial authorities with the function of controlling any actual or potential effects of the use, development, or protection of land,. Section 142 of HSNO specifically preserves the distinct role of HSNO controls, confirming that RMA provisions operate alongside (not in place of) substance-specific regulations.
218. HS-S1 uses HSNO hazard classifications as a screening tool to trigger land use assessment. It does not reregulate substance safety; it identifies when the scale of hazardous substance

activity may give rise to residual land use effects requiring RMA consideration. HS-S1 has a very different function to HSNO/HSWA and is therefore not duplication.

219. To assist with decision making I have included the below table to show the key distinction: HS-S1 adopts HSNO classifications not to re-impose HSNO compliance, but to provide a nationally consistent screening method that identifies when land use assessment is warranted. The consent process then considers matters (HS-MAT1, HS-MAT2) that HSNO does not address.

Regulatory Framework Comparison: HSNO/HSWA vs District Plan Controls

Aspect	HS-S1 (District Plan)	HSNO/HSWA
Purpose	Trigger for land use consent when quantities exceed zone thresholds	Regulate safe handling, storage, and use of hazardous substances
What it asks	<i>Is this the right location for this scale of activity?</i>	<i>Is this substance being managed safely on site?</i>
Regulatory focus	Spatial and locational effects beyond the site boundary	On-site operational safety and worker protection
Zone sensitivity	Thresholds vary by zone (lower in residential, higher in industrial)	Same requirements apply regardless of surrounding land use
Cumulative effects	Considers clustering of hazardous facilities in a locality	Assesses each site individually
Reverse sensitivity	Protects existing facilities from encroaching sensitive uses	No mandate to manage land use compatibility
Natural hazards	Considers appropriateness of location in flood/liquefaction zones	Addresses structural standards, not locational appropriateness
Outcome	Resource consent with conditions addressing off-site effects	Compliance certificate for on-site substance management

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.

Recommendation

221. Reject Fonterra Limited [310.21] seeking exemptions to HS-S1 thresholds for its Maungaturoto Dairy Factory.
222. As stated above in point 167 adding an advice note has no statutory weight, so will not provide the relief sought by Fire and Emergency New Zealand [308.39]. As an alternative I suggest an exemption is included in HS-R1. This change ensures the PDP supports emergency preparedness and response while maintaining environmental protections through existing national regulations