

**BEFORE THE HEARING COMMISSIONERS
IN KAIPARA DISTRICT**

IN THE MATTER of the Resource Management Act 1991 ("**the Act**")

AND

IN THE MATTER of the Proposed Kaipara District Plan Hearing 6 Hazardous
substances

**SUMMARY STATEMENT OF EVIDENCE BY LYNETTE PEARL WHARFE
FOR NEW ZEALAND AGRICULTURAL AVIATION ASSOCIATION**

10 March 2026

1. My EIC addressed the submissions and further submissions made by NZ Agricultural Aviation Association and assessed the s42A Report recommendations and either supported the recommendations or sought alternative changes.
2. My EIC addressed the following:
 - Background to hazardous substances in plans
 - Management of hazardous substances
 - Relationship between HSNO and the RMA
 - Other district plans
 - Responses to the s42A Report
 - S32AA

I included a strikethrough version of the changes that I seek and support.

3. The s42A Report Addendum statement by Ms Horton for Council comments on my EIC and I respond to some of those comments below.
4. The matters I wish to address in this summary statement are:
 - a. The need for the proposed hazardous substance planning framework in the Plan
 - b. Section 32
 - c. Residual risk
 - d. Fertiliser storage
5. The need for the proposed hazardous substance planning framework in the Plan

As set out in my EIC I do not support the regulatory framework proposed in the Plan because of:

- The lack of justification in the s32 Report
- The complexity of the provisions
- Duplication with HSNO and HSW
- Not necessary to give effect to the RPS
- Increase compliance costs
- Lack of certainty
- Focus should be on hazardous substances not hazardous facilities
- Lack of consideration of EPA Hazardous Substances (Hazardous Property Controls) Notice 2017
- Lack of analysis of specific resource management issues for hazardous substances
- No assessment of the ineffectiveness of the provisions for hazardous substances in the Operative Kaipara District Plan.

The s42A Report writer has come to different conclusions and I do not accept her reasons or recommendations.

6. S32 Report
The Section 32 Report states that the PDP largely continues the established approach of the Operative District Plan, which includes a threshold table as in the PDP.

The legislative environment has changed since the ODP was written and there does not appear to be any assessment of changes need to better align with the legislative changes.

While there is inclusion of significant hazardous facilities the definition of such facilities is reliant on use of HS-S1 quantity thresholds, rather than identifying facilities in Kaipara District which pose a residual risk beyond compliance with HSNO and HSWA.

The plan has a non-complying rule in the Natural Hazards chapter for significant hazardous facilities in coastal erosions hazard areas, coastal flood hazard area or river flood area. It should be clear to users the significant hazardous facilities that would trigger this rule, rather than relying on a difficult, complex and impractical threshold trigger.

While a threshold table may have been appropriate under a broader hazardous substances framework I consider that under a more focused approach post-RLAA changes a definition that identifies activities which pose the greatest residual risk is an appropriate approach which provides greater clarity and certainty to users and the community in the district.

Such an analysis is not considered in the s32 Report which I consider to be a significant deficiency in the report, especially considering the approach that other councils were taking toward management of hazardous substances post-RLAA.

7. Residual risk

Ms Horton (4.2.3) considers my evidence regarding inclusion of a definition for residual risk and comes to the conclusion that a standalone definition would not materially assist interpretation and may create unnecessary complexity.

My evidence relied on submissions by NZAAA that sought changes to the policy framework to include specific reference to residual risk, consistent with the direction in the recommendations to amend the Overview.

So seeking a definition for residual risk should not be considered in a stand-alone manner, but as part of a package that seeks to provide greater clarity about the focus of the provisions in the plan.

8. Fertiliser storage

Mr Michelle has addressed matters regarding the storage of fertiliser in his statement to this hearing. I support his statement.

I note that Rule C.6.9.3 in the Regional Plan for Northland permits the discharge of fertiliser onto or into land where it may enter water provided the activity is done in accordance with Sections 5.2 and 5.3 of the Code of Practice for Nutrient Management. (Fertiliser Association

2013.

The Fertiliser Code of Practice has recently been updated to be consistent with HSNO and HSWA and is best practice for fertiliser management, including storage.

The rule for hazardous substances in the ODP also refers to the Fertiliser Code of Practice.

Rule HS-R3 in the PDP is more stringent than the ODP in respect of fertiliser storage but no justification is provided in the s32 Report. Nor is it clear how the classes of 6.3, 6.4 and 6.5 were determined for inclusion as a threshold for a permitted activity rule.

The way the rule is structured means that any fertiliser that is not class 6.3, 6.4 and 6.5 is not a permitted activity and resource consent would be required for the storage of such products, regardless of the efficacy of the storage facility or potential adverse effects. I do not consider this approach to be effects based planning.

The s42A Report writer is recommending in the S42A Addendum Report that the rule be amended to delete the less than 28 day requirement.

While that recommendation goes some way, it does not address the impracticality of the rule, the fact that it is not based on best practice, is not justified in the s32 Report and will lead to considerable need for resource consent for most fertiliser storage in Kaipara District.

I also consider that if the rule is retained it should refer to waterbodies – the RMA terminology and the RMA definition for waterbody included in the Plan. This is efficient and effective planning.

Lynette Wharfe
10 March 2026