



**CENTRAL
HAWKE'S BAY**
DISTRICT COUNCIL

**REPORT OF HEARING
PANEL**

Independent Hearing Commissioners:

Robert Schofield (Chair)
Loretta Lovell
Tim Aitken
Kate Taylor

TOPIC 5A

Contaminated Land and Hazardous Substances

REPORT DATED

4 May 2023

DATE OF HEARING

7 and 8 September 2022

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List of Submitters and Further Submitters addressed in this Report

Submitter Name	Submission Number(s)
Federated Farmers of New Zealand (Federated Farmers)	S121
Fire and Emergency New Zealand (FENZ)	S57
Hawke's Bay Regional Council (HBRC)	S11
Horticulture New Zealand (Hort NZ)	S81
New Zealand Defence Force (NZ Defence Force)	S29
Silver Fern Farms Limited (Silver Fern Farms)	S116
Z Energy Ltd, BP Oil NZ Ltd, Mobil Oil NZ Ltd (the Oil Companies)	S110

Further Submitter Name	Further Submission Number(s)
First Gas Limited (First Gas)	FS3
Hort NZ	FS17
NZ Defence Force	FS12
Royal Forest and Bird Protection Society of New Zealand Incorporated (Forest & Bird)	FS9
Silver Fern Farms	FS8

PART A – PRELIMINARY MATTERS

1 Introduction

1.1 Scope of this report

- 1.1.1 This document details the evaluation and recommended decisions of the Proposed CHBDC Plan Hearings Panel on the submissions and evidence on Contaminated Land and Hazardous Substances considered at the Hazards and Risks, Earthworks and Subdivision topic hearing, held on 7 and 8 September 2022 at the CHBDC Chambers, Waipawa.
- 1.1.2 The recommendations in this report, together with all of the other recommendations of the Hearing Panel (“the Panel”) on submissions on the PDP, will all go before the full Council following the end of the hearings, who will make the formal decisions.
- 1.1.3 Our report focuses on the key issues in contention. Where there is no contention, such as submitter support for certain provisions, or minor matters where proposed changes are recommended in response to submissions, we have adopted the s42A report’s recommendations and the underlying evaluation behind such changes.

1.2 Statutory considerations

- 1.2.1 The Panel’s Report on Preliminary Matters and Statutory Requirements sets out the statutory framework and requirements for preparing a District Plan, as well as case law guidance for our consideration and recommendations. This framework is not repeated in this report. This report should be read in conjunction with the Report on Preliminary Matters and Statutory Requirements.
- 1.2.2 This report will refer to the s42A report ‘Officer’s Report: Contaminated Land and Hazardous Substances’ prepared by Rowena Macdonald.
- 1.2.3 Contaminated land and hazardous substances are covered in the ‘Remaining District Wide Chapters and Relocated Buildings Provisions – Section 32 Topic Report’.
- 1.2.4 As submissions on particular aspects of the PDP are considered through hearing reports, officers are required to consider any alternative provisions put forward in the context of what s 32 requires, and when changes are recommended, a further assessment under s 32AA will be provided if the change is a material departure from what was notified. That same obligation to make a further assessment under s 32AA also applies to the Panel if it decides to recommend changes as a result of submissions which materially depart from the notified version.
- 1.2.5 Through Minute #5, the Panel urged submitters to provide the hearings with a further assessment under s 32AA for any changes to the PDP they were seeking.
- 1.2.6 Where the Panel has made amendments to the PDP that are consistent with the recommendations contained within Council officers’ s42A and / or right-of-reply reports (and where there are relevant joint witness statements) we have adopted the s32AA analysis contained within those reports (unless expressly stated otherwise). Those reports are part of the public record and are available on the CHBDC website.
- 1.2.7 Where the Panel has made amendments to the PDP that are not contained within the reporting planner’s recommendations, we have undertaken the required s32AA analysis and have incorporated it into the body of our report. We are satisfied that the required substantive assessment has been undertaken.

- 1.2.8 As set out in the Section 32 ‘Remaining District Wide Chapters and Relocated Building Provisions’ Topic Report, there are a number of higher order planning documents that provide direction and guidance for the preparation and content of the PDP, including the New Zealand Coastal Policy Statement (2010) (NZCPS), the Hawke’s Bay Regional Resource Management Plan (HBRMP) including the Regional Policy Statement (2006) (RPS), and the Hawke’s Bay Regional Coastal Environment Plan (2014) (HBRCP). These documents are discussed in detail within the Section 32 Topic Report.
- 1.2.9 In addition, the management of contaminated soil to protect human health is controlled by the National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health 2011.
- 1.2.10 In relation to hazardous substances, two relevant statutes are:
- Hazardous Substances and New Organisms Act 1996 (HSNO), which regulates the management, disposal, classification, packaging and transport of hazardous substances
 - Health and Safety at Work Act 2015 (HSW Act), under which Worksafe New Zealand is responsible for establishing workplace controls for hazardous substances, and is the principal enforcement and guidance agency in workplaces.

1.3 Submissions

- 1.3.1 This topic report addresses submissions received on the ‘CL – Contaminated Land’ and ‘HAZS – Hazardous Substances’ in Part 2 District-Wide Matters ‘Hazards & Risks’ section of the PDP. Submissions were received on these topics as summarised below.

Contaminated Land

- 1.3.2 There were 2 submitters and 1 further submitter across the whole ‘Contaminated Land’ topic.
- 1.3.3 Six original submission points and 1 further submission point were received on the provisions relating to this topic.
- 1.3.4 Of the 6 original submission points, 4 submission points were in support. The 2 submission points seeking amendments relate to Objective CL-O1 and Method CL-M1.

Hazardous Substances

- 1.3.5 There were 6 submitters and 5 further submitters across the whole ‘Hazardous Substances’ topic.
- 1.3.6 Forty original submission points and 12 further submission points were received on the provisions relating to this topic.
- 1.3.7 Of the 40 original submission points, 24 submission points were in support. The 16 submission points seeking amendments or opposing provisions relate to the definitions of ‘Major Hazardous Facility’ & ‘Offensive Process’ in the PDP, the wording of the Introduction, Issue HAZS-I1, Objective HAZS-O2, Policies HAZS-P2 & HAZS-P4 and seeking addition of a new policy, Rules HAZS-R1 & HAZS-R3, and Method HAZS-M2.

1.4 Procedural matters

- 1.4.1 There were no pre-hearing meetings or meetings undertaken in accordance with cl8AA of Schedule 1, undertaken on the submissions relating to the Contaminated Land & Hazardous Substances topic prior to the finalisation of the s42A report.
- 1.4.2 No further consultation with any parties regarding the Contaminated Land & Hazardous Substances topic has been undertaken since notification of the provisions.

1.4.3 No procedural matters were raised in respect of hearing these two topics.

1.4.4 No matters of trade competition were raised.

1.5 Hearing

1.5.1 The Hazards and Risks, Earthworks and Subdivision topic hearing was held on 7 and 8 September 2022 at the CHBDC Chambers, Waipawa.

1.5.2 Submitters who appeared at the hearing in relation to the Contaminated Land and Hazardous Substances topics are shown below in Table 1. All evidence can be found on the PDP Hearing Schedule webpage under the relevant Hearing Topic [[Hearing Stream 5 | Central Hawke's Bay District Council \(chbdc.govt.nz\)](#)].

Table 1. Submitters who appeared at Hearing Stream 5: Hazards and Risks, Earthworks and Subdivision in relation to Contaminated Land and Hazardous Substances topics

Submitter (Submitter Number)	Represented by/ experts called	Nature of evidence	Key Issue under which evidence is discussed
Hort NZ (S81, FS17)	Jordyn Landers (Planning) Lynette Wharfe (Planning)	Statement of Evidence	Key Issues 1, 2
Federated Farmers (S121)	Rhea Dasent (Planning)	Statement of Evidence	Key Issues 2, 3
Silver Fern Farms (S116, FS8)	Steven Tuck (Planning)	Statement of Evidence	Key Issues 2, 3
FENZ (S57)	Paul McGimpsey (Planning)	Written statement	Key Issue 2
First Gas (FS3)	Graeme Roberts (Planning)	Statement of Evidence	Key Issue 3
The Oil Companies (Z Energy Ltd, BP Oil NZ Ltd, Mobil Oil NZ Ltd) (S110)	Megan Barr (Planning)	Written statement	Key Issue 2

1.5.3 Ms Rowena Macdonald, reporting planner, appeared for the Central Hawke's Bay District Council.

1.5.4 Evidence provided by Ms Macdonald included:

- Officer's Report: Contaminated Land and Hazardous Substances ("the s42A report), and
- Opening statement (verbal).

1.5.5 Following the adjournment of the hearing on 8 September 2022, Minute 15, the fifteenth memorandum and direction of the Panel following Hearing 5 was issued on 14 September 2022. The Panel sought information to be included in the right-of-reply on the potential for identifying the presence of Major Hazardous Facilities in the PDP or elsewhere.

1.5.6 A written right-of-reply from the Council's reporting planner was received and circulated on 27 October 2022.

1.6 Structure of this report

1.6.1 Given the number, nature and extent of the submissions and further submissions received, we have structured this report according to the key issues identified in the s42A report, rather than present

a submission point by submission point evaluation. Many of the submissions addressed the same or related issues and thus a key issue approach avoids undue repetition. There are 3 key issues addressed in this report:

- Key Issue 1: Contaminated Land – all provisions;
- Key Issue 2: Hazardous Substances – Introduction, Issues, Objectives and Policies; and
- Key Issue 3: Hazardous Substances – Rules, Methods and Assessment Matters.

- 1.6.2 We have structured our evaluation and recommendations on a hierarchical basis, firstly reviewing the overarching issues relating to the topic and those submissions that made general points about the topic, including those seeking a binary relief such as complete withdrawal of relevant plan provisions. This includes relevant definitions.
- 1.6.3 We then turn our evaluation to the higher-level provisions of the District Plan relating to the topic: the objectives and policies and associated matters.
- 1.6.4 Thereafter we considered the associated rules and standards, and, if relevant, methods and anticipated environmental results.
- 1.6.5 Finally, we consider whether there are any minor errors that should be rectified or consequential amendments that may be needed as a result of our recommendations.
- 1.6.6 The Panel's recommendations for each submission point are listed in the table in Appendix B.

PART B – EVALUATION

2 Key Issue 1 – Contaminated Land

2.1 Proposed Plan provisions

- 2.1.1 This key issue addresses submissions on the CL - Contaminated Land chapter which is contained within the Hazards and Risks section of Part 2 District-Wide Matters. The chapter contains objectives and policies but there are no rules with respect to contaminated land in the PDP as there is an effective rule framework contained within the National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health (NES-CS).

2.2 Submissions

- 2.2.1 There were 6 original submission points addressing contaminated land, with 1 further submission point.
- 2.2.2 The submissions were generally in support, with amendments sought to Objective CL-O1 and Method CL-M1.

2.3 Reporting planner's recommendations (s42A report)

Objective CL-O1

- 2.3.1 The Oil Companies' submission S110.013 sought that the term 'Land containing elevated levels of contaminants' in CL-O1 be replaced with 'contaminated land'. The reporting planner agreed that this would be more consistent with how the remainder of the chapter has been written. The reporting planner recommended CL-O1 be amended as follows:

CL-O1 ~~Land containing elevated levels of contaminants~~**Contaminated land** is managed to protect human health and the environment and to enable land to be used in the future.

Method CL-M1

- 2.3.2 The reporting planner agreed with Hort NZ that it would be of assistance for the wording of Method CL-M1 to reflect that the NES-CS does not apply to production land in certain circumstances. The reporting planner did not consider the wording proposed by Hort NZ was an accurate summary of cl5(8) of the NES-CS and recommended the following, more general, wording:

CL-M1 Resource Management (National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health) Regulations 2011

The NES-CS contains specific controls applying to potentially contaminated soils, including rules, as well as associated matters over which control is reserved or over which discretion is restricted, where applicable.

The NES-CS regulations do not apply in all scenarios. Reg 5 sets out the situations where the NES-CS applies.

2.4 Evidence to the hearing

- 2.4.1 Jordyn Landers presented evidence for Hort NZ at the hearing. Ms Landers generally supported the s42A report recommendations and was comfortable with the wording proposed in the s42A report for CL-M1.

2.5 Post hearing information

- 2.5.1 The reporting planner's right-of-reply did not address any matters relating to Contaminated Land, and no additional information was provided.

2.6 Evaluation and findings

Objective CL-O1

- 2.6.1 The Panel agrees with the reporting planner the term 'contaminated land' is more consistent with the chapter and recommends the following amendment:

CL-O1 ~~Land containing elevated levels of contaminants~~ **Contaminated land** is managed to protect human health and the environment and to enable land to be used in the future.

Method CL-M1

- 2.6.2 The Panel agrees with the reporting planner that it would be useful to reflect that the NES-CS does not apply in certain circumstances. The Panel considers that the wording proposed by the reporting planner could be made clearer and recommends the following amendment:

CL-M1 Resource Management (National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health) Regulations 2011

The NES-CS contains specific controls applying to potentially contaminated soils, including rules, as well as associated matters over which control is reserved or over which discretion is restricted, where applicable.

Regulation 5 of the NES-CS sets out the situations where the NES-CS applies.

3 Key Issue 2 – Hazardous Substances – Introduction, Issues, Objectives and Policies

3.1 Proposed Plan provisions

- 3.1.1 The HAZS – Hazardous Substances chapter is contained within the Hazards and Risks section of Part 2 District-Wide Matters. This key issue addresses submissions on the Hazardous Substances definitions, introduction, issues, objectives and policies.
- 3.1.2 As there is other legislation controlling the effects of the storage, use, disposal and transportation of hazardous substances, the PDP only places controls on hazardous substance use under the RMA where HSNO or Worksafe controls are not adequate to address the environmental effects of hazardous substances in any particular case.

3.2 Submissions

- 3.2.1 There were 29 original submission points and 6 further submission points relating to the Hazardous Substances' introduction, issues, objectives and policies.
- 3.2.2 The submissions were largely in support of the definitions, issues, objectives and policies in the HAZS – Hazardous Substances chapter in the PDP, and, where they were not in support, they sought amendments or opposed the definitions of 'Major Hazardous Facility' & 'Offensive Process' in the PDP, the wording of the Introduction, Issue HAZS-I1, Objective HAZS-O2, and Policies HAZS-P2 & HAZS-P4. One submitter sought the addition of a new policy in this chapter.

3.3 Reporting planner's recommendations (s42A report)

Whole Chapter, definition of Hazardous Substances', Objective HAZS-O1, and Policies HAZS-P1 and HAZS-P3

- 3.3.1 Submissions in support of the chapter generally, and in relation to the definition of 'Hazardous Substances', Objective HAZS-O1 and Policies HAZS-P1 & HAZS-P3 were all in support, and were not further analysed by the reporting planner.

Definition of 'Major Hazardous Facility'

- 3.3.2 There was a level of support for retention of the definition of 'Major Hazardous Facility' in the PDP, or parts thereof. However, FENZ, Silver Fern Farms, and the Oil Companies either sought amendments to include/exclude various activities from the definition or, in the case of the Oil Companies, questioned whether there should be any broad hazardous substance controls in the PDP at all.
- 3.3.3 The submission of the Oil Companies sought the 'Health and Safety at Work (Major Hazard Facilities) Regulations 2016' (MHF Regulations) be the starting point for a definition of Major Hazardous Facilities. The reporting planner was of the view the definition in the MHF Regulations is complex for a PDP user to interpret, and also relied on a third party (Worksafe) to determine whether a facility would meet this definition. For this reason, the reporting planner considered that the list of 'Major Hazardous Facilities' in the definition in the PDP would be simpler and easier to administer, given that it acts as a trigger for resource consent.
- 3.3.4 In response to the Oil Companies' concern that the definition could potentially omit a range of facilities, the reporting planner considered this could be addressed by inserting the additional

clause *'Any facility deemed a Major Hazardous Facility under the Health and Safety at Work Major Hazardous Facilities Regulations 2016'* in the definition (as sought by FENZ).

- 3.3.5 In relation to FENZ's request to add a quantity limit to facilities in a(i) and b(i) of the definition, the reporting planner did not support a limit for a(i) which involves manufacturing and associated storage of hazardous substances rather than small amounts of storage for use by small business. The reporting planner did not support a limit for b(i) which already referenced 'in minimal domestic scale quantities' as in her view a common-sense approach would apply, noting that no particular thresholds were recommended by FENZ.
- 3.3.6 In relation to FENZ's submission which sought an exclusion for Emergency Service Activities, the reporting planner considered more information from FENZ was needed.
- 3.3.7 The reporting planner agreed with Silver Fern Farms' that 'freezing works' is an outdated term and should be updated to 'meat processing'.
- 3.3.8 The reporting planner recommended the following amendments to the definition of 'Major Hazardous Facility':

MAJOR HAZARDOUS FACILITY	<p>(a) any facility which involves one or more of the following activities:</p> <ul style="list-style-type: none"> (i) manufacturing and associated storage of hazardous substances (including industries manufacturing agrochemicals, fertilisers, acids/alkalis or paints) (ii) oil and gas exploration and extraction facilities (iii) purpose-built bulk storage facilities for the storage of hazardous substances (other than petrol, diesel or LPG) for wholesale supply (iv) the storage/use of more than 6 tonnes of LPG (v) galvanising plants (vi) electroplating and metal treatment facilities (vii) tanneries (viii) timber treatment (ix) meat processing, freezing works and rendering plants (x) wastewater treatment plants (xi) metal smelting and refining (including battery refining or re-cycling) (xii) milk treatment plants (xiii) fibreglass manufacturing (xiv) polymer foam manufacturing (xv) asphalt/bitumen manufacture or storage (xvi) landfills <u>(xvii) the storage and/or treatment of hazardous waste (including reuse and recycling facilities) or hazardous substances awaiting reuse, recycling, or treatment</u> <u>(xviii) any facility designated a Major Hazard Facility under the Health and Safety at Work (Major Hazard Facilities) Regulations 2016</u> <p>(b) The following activities are not considered to be major hazardous facilities:</p> <ul style="list-style-type: none"> (i) the incidental use and storage of hazardous substances in minimal domestic-scale quantities (ii) retail outlets for hazardous substances intended for domestic usage (e.g. supermarkets, hardware stores and pharmacies) (iii) the incidental storage and use of agrichemicals, fertilisers and fuel for primary production activities (iv) the mixing of fertilisers (v) service stations, truck stops and commercial refueling activities (vi) pipelines used for the transfer of hazardous substances such as gas, oil, trade waste and sewage (vii) fuel in motor vehicles, boats, airplanes and small engines (viii) military training activities (ix) the transport of hazardous substances (e.g. in trucks or trains) <u>(x) the incidental storage and use of hazardous substances for emergency service activities</u>
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Definition of ‘Offensive Process’

- 3.3.9 Silver Fern Farms sought deletion of ‘meat processing or any associated processing of meat and meat by-products or co-products’ from the definition of ‘Offensive Process’ on the basis that the activity of ‘offensive processes’ is only provided for in the General Industrial Zone, and Silver Fern Farms is not located in this zone. The reporting planner provided an explanation in the s42A report of how the rules relating to offensive processes and industrial activities work in different zones. Given how the rules work, and in the absence of evidence that ‘meat processing or any associated processing of meat and meat by-products or co-products’ does not warrant defining as an ‘offensive process’ along with the other processes listed in the definition, the reporting planner did not support deleting it from the definition in the PDP.

Introduction and Issue HAZS-I1

- 3.3.10 The Oil Companies sought amendments to the Introduction to the Hazardous Substances chapter and to Issue HAZS-I1 of the PDP as they considered there needs to be greater clarity around the role of Council in the management of hazardous substances under the RMA, and in avoiding duplication with HBRC functions and HSNO and Worksafe legislative controls.
- 3.3.11 The reporting planner considered the amendments sought by the submitters appropriate and agreed they more accurately reflect the intent of the chapter, which was to avoid duplication covered by other specific legislation or regulated by the HBRC, and to focus controls in the PDP on the use, storage, disposal, and transportation of hazardous substances where these are associated with the control of the use of land under s9 of the RMA. The reporting planner recommended the following amendments:

Introduction

Hazardous substances include substances such as industrial, agricultural, horticultural and household chemicals, medical wastes, petroleum products including LPG and lubricating oils, explosives and radioactive substances. Given the potential risk to the health and safety of people, hazardous substances must be managed to ensure they are located, stored and used in a safe and secure manner.

Previously regional and district councils had an explicit function to control the adverse effects of the storage, use, disposal or transportation of hazardous substances under the RMA. Since this function was first included in the RMA in 1991, the following Acts have been passed:

- Hazardous Substances and New Organisms Act 1996 (HSNO), which regulates the management, disposal, classification, packaging and transport of hazardous substances
- Health and Safety at Work Act 2015 (HSW Act), under which Worksafe New Zealand is responsible for establishing workplace controls for hazardous substances, and is the principal enforcement and guidance agency in workplaces.

~~Whilst the Resource Legislation Amendments 2017 changed the RMA so Councils no longer have this explicit function to control hazardous substances, they Councils still have a broad function of achieving integrated management of the effects of the use, development, or protection of land and associated natural and physical resources of the district. To avoid duplication, the Council seeks only to control matters that are not adequately covered by other more specific legislation or regulated by the Hawke's Bay Regional Council and proposes to do this by focused provisions targeting major hazardous facilities. Council proposes to use this broad function to place extra controls on hazardous substance use under the RMA, where HSNO or Worksafe controls are not adequate to address the environmental effects of hazardous substances in any particular case.~~

HAZS-I1 If not appropriately stored and used, hazardous substances pose potential threats to the health and safety of the District's people and natural environment.

Explanation

While hazardous substances are largely controlled through other legislation, some hazardous facilities may create off site risks to people, property and the environment. the Council is still required by the RMA to achieve integrated management of effects, including control of any actual or potential effects associated with the storage, use, disposal, or transportation of hazardous substances.

~~Two issues arise from the use of hazardous substances. The first concerns the safe day-to-day use of hazardous substances. The second is the possible effects on the health and safety of people and on the natural environment involving the establishment and operation of major hazardous facilities.~~

Objective HAZS-O2

- 3.3.12 While there was general support for retaining Objective HAZS-O2 by submitters, the Oil Companies sought an amendment to expand the objective to include reference to the Health and Safety at Work Act 2015 and the Regional Plan.
- 3.3.13 The reporting planner agreed that it would be appropriate to reference these within the objective and recommended the following amendment to HAZS-O2:

Policy HAZS-P2

- 3.3.14 While there was some support for retention of Policy HAZS-P2 by submitters, the Oil Companies' submission sought to delete the policy entirely, while Silver Fern Farms was concerned about the implications for upgrading or expanding its existing facility at Takapau.
- 3.3.15 The reporting planner agreed with the Oil Companies that Policy HAZS-P2 addressed a range of matters appropriately controlled through other provisions at both the district (e.g., zone activity rules, zone setback standards, earthworks controls, and rules managing risk from natural hazards) and regional level (e.g., discharges to land, air and water). The reporting planner also agreed that Policy HAZS-P3 sufficiently addressed potential risks associated with the storage and use of hazardous substances and that the policy to avoid various sensitive activities/items/areas would be overly onerous when contemplating the upgrade or expansion of any existing major hazardous facilities in the District.
- 3.3.16 The reporting planner was of the view that Policy HAZS-P2 is inappropriate and recommended it be deleted.

Policy HAZS-P4 and new policy

- 3.3.17 The Oil Companies sought to have policy HAZS-P4 deleted as, in their view, it is essentially a repeat of Objective HAZS-O2 (refer amended version recommended above). The reporting planner agreed, considering the wording of Objective HAZS-O2 unnecessarily duplicates Policy HAZS-P4, and the content of the Policy is more of an objective in nature.
- 3.3.18 Federated Farmers sought inclusion of an additional policy which they considered would implement Objective HAZS-O2 and the reporting planner agreed with Hort NZ (in support of Federated Farmers' submission) that the additional policy sought is similar to Policy HAZS-P4, but is better focused in terms of achieving Objective HAZS-O2. The reporting planner considered this would align closely with the Hastings District Plan.
- 3.3.19 The reporting planner recommended, on the basis Objective HAZS-O2 is retained, replacing Policy HAZS-P4 with the following:

HAZS-P4 To not regulate the use, storage, or transportation of hazardous substances in the District Plan where adequate levels of community and environmental protection is already provided by the Hazardous Substances and New Organisms Act 1996, Health and Safety at Work Act 2015, or the Regional Plan. ~~To avoid any unnecessary duplication of regulation with other statutory processes for hazardous substance activities.~~

3.4 Evidence to the hearing

- 3.4.1 In her evidence for Hort NZ, Ms Jordan Landers generally supported the s42A report recommendations. With respect to the definition of 'major hazardous facility', Ms Landers noted Hort NZ's interest is in ensuring that the management related to hazardous substances which are part of business-as-usual horticultural land use do not inadvertently get captured. Ms Lynette Wharfe for Hort NZ provided evidence on the changes she recommended to the definition of 'major hazardous facility' in the s42A report. Ms Wharfe supported the inclusion of (xviii) referring to the Health and Safety at Work regulations. However, Ms Wharfe did not support the addition of clause (xvii), for several reasons, including inconsistency with the PDP and the Hastings District Plan, and its broad scope.
- 3.4.2 Federated Farmers, in the evidence of Ms Rhea Dasent, agreed with the s42A report's recommended replacement wording for Policy HAZS-P4.

- 3.4.3 Mr Steven Tuck, in evidence for Silver Fern Farms, supported the s42A report recommended amendments to the definitions of 'Major Hazardous Facility' and 'Offensive Process', and the deletion of HAZS-P2.
- 3.4.4 Mr Paul McGimpsey for FENZ, addressed the 'Major Hazardous Facilities' definition and provided clarification of the hazardous substances stored at Fire and Emergency facilities. Mr McGimpsey also noted the differences in definition of 'Major Hazardous Facility' in the Health and Safety at Work (Major Hazardous Facility) Regulations and the PDP and suggested adopting a different term such as 'Hazardous Facility'.
- 3.4.5 In a statement, the Oil Companies addressed the proposed amended definition of 'Major Hazardous Facility'. While disagreeing with the principle of potentially broad controls, the Oil Companies accepted retention of a version of the definition that exempted '(b)(v) service stations, truck stops and commercial refuelling activities' and '(b)(vi) pipelines used for the transfer of hazardous substances such as gas, oil, trade waste and sewage'. The Oil Companies also supported the insertion of the additional clause 'Any facility deemed a Major Hazardous Facility under the Health and Safety at Work Major Hazardous Facilities Regulations 2016' to ensure that MHF are not inadvertently excluded from the definition. The Oil Companies did not support the recommendation that a new clause stating 'The storage and/or treatment of hazardous waste (including reuse and recycling facilities) or hazardous substances awaiting reuse, recycling or treatment' be added to the definition of MHF, as proposed by FENZ. The Oil Companies did not consider there was a strong evidence base to support its inclusion and were concerned that adding the clause had the potential to create unintended consequences in that the definition could capture a range of facilities that were not what Council was intending to control through the definition of MHF.

3.5 Post hearing information

- 3.5.1 In their right-of-reply of 27 October 2022, having considered the FENZ evidence relating to the definition of 'Major Hazardous Facility', the reporting planner did not change their position from that in the s42A report.
- 3.5.2 Having considered the evidence of Ms Wharfe for Hort NZ and the statement of the Oil Companies, the reporting planner changed their position from the s42A report and recommended an amendment to the definition of 'Major Hazardous Facility' to clarify that incidental storage includes for disposal purposes.
- 3.5.3 The right-of-reply also addressed the options for identifying the presence of facilities, including major hazardous facilities, to alert PDP users to the presence of these sites. It identified the option of including such sites on Council's GIS as an 'information-only' layer.

3.6 Evaluation and findings

Definition of 'Major Hazardous Facility'

- 3.6.1 The Panel agrees with the reporting planner's recommendations on the definition of 'Major Hazardous Facility'. The Panel agrees the proposed definition is practical and workable, subject to the following amendments in response to submissions:

- Change freezing works to meat processing;
- Include the storage and/or treatment of hazardous waste or hazardous substances awaiting recycling or reuse;
- Include Major Hazard Facilities under the Health and Safety and Work (Major Hazard Facilities) Regulations 2016;
- Exclude the incidental storage and use of hazardous substances for emergency service activities, and
- Clarify in the exclusions that storage includes for disposal.

3.6.2 The Panel therefore recommends the following amendments:

MAJOR HAZARDOUS FACILITY	<p>(a) any facility which involves one or more of the following activities:</p> <ul style="list-style-type: none"> i.manufacturing and associated storage of hazardous substances (including industries manufacturing agrochemicals, fertilisers, acids/alkalis or paints) ii.oil and gas exploration and extraction facilities iii.purpose-built bulk storage facilities for the storage of hazardous substances (other than petrol, diesel or LPG) for wholesale supply iv.the storage/use of more than 6 tonnes of LPG v.galvanising plants vi.electroplating and metal treatment facilities vii.tanneries viii.timber treatment ix.meat processing freezing works and rendering plants x.wastewater treatment plants xi.metal smelting and refining (including battery refining or re-cycling) xii.milk treatment plants xiii.fibreglass manufacturing xiv.polymer foam manufacturing xv.asphalt/bitumen manufacture or storage xvi.landfills xvii.<u>the storage and/or treatment of hazardous waste (including reuse and recycling facilities) or hazardous substances awaiting reuse, recycling, or treatment</u> xviii.<u>any facility designated a Major Hazard Facility under the Health and Safety at Work (Major Hazard Facilities) Regulations 2016</u> <p>(b) The following activities are not considered to be major hazardous facilities:</p> <ul style="list-style-type: none"> i.the incidental use and storage (<u>including for disposal</u>) of hazardous substances in minimal domestic-scale quantities ii.retail outlets for hazardous substances intended for domestic usage (e.g., supermarkets, hardware stores and pharmacies) iii.the incidental <u>use and</u> storage (<u>including for disposal</u>) and use of agrichemicals, fertilisers and fuel for primary production activities. iv.the mixing of fertilisers v.service stations, truck stops and commercial refuelling activities vi.pipelines used for the transfer of hazardous substances such gas, oil, trade waste and sewage vii.fuel in motor vehicles, boats, airplanes and small engines viii.military training activities ix.the transport of hazardous substances (e.g., in trucks or trains) x.<u>the incidental use and storage (including for disposal) of hazardous substances for emergency service activities</u>
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Definition of 'Offensive Process'

3.6.3 The Panel agrees with the reporting planner that 'meat processing or any associated processing of meat and meat by-products or co-products' should not be deleted from the definition of 'Offensive Process' as sought by Silver Fern Farms, as this term is used to trigger resource consent for those

types of activities that have the potential to generate unpleasant or disagreeable effects (particularly odour). The Panel accordingly recommends the definition be retained as notified.

Introduction & Issue HAZS-I1

- 3.6.4 The Panel agrees with the reporting planner that the amendments sought to the Introduction and HAZS-I1 are appropriate and more accurately reflect the intent of the chapter, with some minor wording amendments to improve the clarity of the text. The Panel recommends the following amendments:

Introduction

Hazardous substances include substances such as industrial, agricultural, horticultural and household chemicals, medical wastes, petroleum products including LPG and lubricating oils, explosives and radioactive substances. Given the potential risk to the health and safety of people, hazardous substances must be managed to ensure they are located, stored and used in a safe and secure manner.

Previously regional and district councils had an explicit function to control the adverse effects of the storage, use, disposal or transportation of hazardous substances under the RMA. Since this function was first included in the RMA in 1991, the following Acts have been passed:

- Hazardous Substances and New Organisms Act 1996 (HSNO), which regulates the management, disposal, classification, packaging and transport of hazardous substances
- Health and Safety at Work Act 2015 (HSW Act), under which Worksafe New Zealand is responsible for establishing workplace controls for hazardous substances, and is the principal enforcement and guidance agency in workplaces.

~~Whilst the Resource Legislation Amendments 2017 changed the RMA so Councils no longer have this explicit function to control hazardous substances, the Councils still have a broad function of achieving integrated management of the effects of the use, development, or protection of land and associated natural and physical resources of the district. To avoid duplication, the Council seeks only to control matters that are not adequately covered by other more specific legislation or regulated by the Hawke's Bay Regional Council and proposes to do this by focused provisions targeting major hazardous facilities. Council proposes to use this broad function to place extra controls on hazardous substance use under the RMA, where HSNO or Worksafe controls are not adequate to address the environmental effects of hazardous substances in any particular case.~~

HAZS-I1 If not appropriately stored and used, hazardous substances pose potential threats to the health and safety of the District's people and natural environment.

Explanation

While hazardous substances are largely controlled through other legislation, ~~the Council is still required by the RMA to achieve integrated management of effects, including control of any actual or potential effects associated with the storage, use, disposal, or transportation of hazardous substances, some hazardous facilities may create off site risks to people, property and the environment that may require management by the District Plan.~~

~~Two issues arise from the use of hazardous substances. The first concerns the safe day-to-day use of hazardous substances. The second is the possible effects on the health and safety of people and on the natural environment involving the establishment and operation of major hazardous facilities.~~

Objective HAZS-O2

- 3.6.5 The Panel agrees with the reporting planner that it is appropriate to reference the HSW Act and the Regional Plan in the objective and recommends the following amendment:

HAZS-O2 Avoid any unnecessary duplication of regulation between the Hazardous Substances and New Organisms Act 1996, Health and Safety at Work Act 2015, Regional Plan, and the District Plan.

Policy HAZS-P2

- 3.6.6 The Panel agrees with the reporting planner that, in respect of Major Hazardous Facilities, there is a degree of overlap between HASZ-P2 and HASZ-P3, and that the latter is more effectively expressed as a policy. The Panel agrees that Policy HAZS-P2 should be deleted, as sought by the Oil Companies.

Policy HAZS-P4 & new policy

- 3.6.7 The Panel agrees with the reporting planner that Policy HAZS-P4 unnecessarily duplicates the wording of HAZS-O2 and should be deleted. The Panel agrees with the reporting planner that the policy sought by Federated Farmers is better focussed in terms of achieving Objective HASZ-O2 and aligns with the Hastings District Plan. The Panel recommends replacing HAZS-P4 with the following:

HAZS-P4 To not regulate the use, storage, or transportation of hazardous substances in the District Plan where adequate levels of community and environmental protection is already provided by the Hazardous Substances and New Organisms Act 1996, Health and Safety at Work Act 2015, or the Regional Plan
~~To avoid any unnecessary duplication of regulation with other statutory processes for hazardous substance activities.~~

Major Hazardous Facilities information layer

- 3.6.8 The Panel has given consideration to the identification of Major Hazardous Facilities. The Panel considers there is merit in including a GIS layer for information purposes (either within the PDP or on Council's GIS) but recognises there may be some practical implications and requirements involved in compiling this information.

4 Key Issue 3 – Hazardous Substances – Rules, Methods and Assessment Matters

4.1 Proposed Plan provisions

- 4.1.1 Key Issue 3 addresses submissions relating to the rules and assessment matters for Hazardous Substances.

4.2 Submissions

- 4.2.1 In summary, 11 submission points and 5 further submission points were in support of Rule HAZS-R2 and Assessment Matters HAZS-AM1 & HAZS-AM2, and sought amendments or opposed Rules HAZS-R1 & HAZS-R3 and Method HAZS-M2 in the Hazardous Substances chapter of the PDP.

4.3 Reporting planner's recommendations (s42A report)

Rule HAZS-R2 and Assessment Matters HAZS-AM1 & HAZS-AM2

- 4.3.1 Submissions on Rule HAZS-R2 and Assessment Matters HAZS-AM1 & HAZS-AM2 were all in support, and the reporting planner did not analyse these further.

Rule HAZS-R1

- 4.3.2 Among submitters, there was support for retention of Rule HAZS-R1 on the basis that it provides for the storage, handling or use of hazardous substances (outside Major Hazardous Facilities) in all zones, subject to conditions.
- 4.3.3 However, the Oil Companies, NZ Defence Force, and Federated Farmers raised concerns with the permitted activity condition (Rule HAZS-R1(1)(a)) requiring that all relevant standards in the underlying zone must be complied with, and non-compliance with those underlying zone standards could inadvertently trigger the requirement for a separate resource consent for a completely unrelated breach of zone standards (e.g., noise, lighting) on the same site.
- 4.3.4 The reporting planner agreed that the way the rule is framed is problematic and does not follow the drafting norms applying to other district-wide rules in the PDP (e.g., Rule TRAN-R1, Rule LIGHT-R1, Rule NOISE-R1 etc). The reporting planner considered the intent of the rule was to provide a permitted activity pathway for activities that were not 'Major Hazardous Facilities' and did not involve explosives within 60m of the Gas Transmission Network. Ms Macdonald stated that triggering a resource consent for storage, handling or use of hazardous substances based on a breach of the zone standards was not intended.
- 4.3.5 Accordingly, the reporting planner recommended the intent of the rule should be clarified and the rule should follow the drafting norms used across the PDP. The reporting planner recommended Rule HAZS-R1 be retained, but that condition (1)(a) be deleted, as follows:

HAZS-R1 The storage, handling or use of hazardous substances (except Major Hazardous Facilities)		
All Zones	<p>1. Activity Status: PER</p> <p>Where the following conditions are met:</p> <p>a. All relevant Standards in the underlying zone are complied with.</p> <p>b. The activity does not involve the use of explosives within 60m of any part of the Gas Transmission Network.</p>	<p>2. Activity status where compliance not achieved: RDIS</p> <p>Matters over which discretion is restricted:</p> <p>a. The risk of hazards affecting public or individual safety, and the risk of property damage.</p> <p>b. Measures proposed to avoid or mitigate potential adverse effects on the Gas Transmission Network.</p> <p>c. Technical advice, including an assessment of the level of risk.</p> <p>d. The outcome of any consultation with the owner and operator of the Gas Transmission Network.</p> <p>e. Whether the use of explosives could be located a greater distance from the Gas Transmission Network.</p>

Rule HAZS-R3

- 4.3.6 The Oil Companies, supported by Silver Fern Farms, supported the discretionary activity pathway for new Major Hazardous Facilities in Rule HAZS-R3, but sought that the rule be amended in such a way that, when applying to existing facilities, it only applies to those which are increasing potential off-site risk associated with the storage, use, or manufacture of hazardous substances.
- 4.3.7 The reporting planner agreed that the rule should relate to hazardous substances and should focus on activities that were proposing to increase the storage of hazardous substances, or otherwise increase the off-site risk associated with hazardous substances. Ms Macdonald agreed that the rule should not inadvertently apply to development undertaken at an existing facility if unrelated to hazardous substances use or storage. Effects associated with such development would, if necessary, be addressed through the zone provisions.
- 4.3.8 The reporting planner recommended that the rule be reworded as follows:

HAZS-R3 New Major Hazardous Facilities , or upgrading of existing, Major Hazardous Facilities where this results in an increase in the quantity of hazardous substances used or stored on-site or a change in the storage method		
All Zones	3. Activity Status: DIS	4. Activity status where compliance not achieved: N/A

Method HAZS-M2

- 4.3.9 Hort NZ sought that the reference to NZS 8409:2004 be updated. The reporting planner confirmed that the 2004 version had been superseded by the 2021 version and recommended the following amendment:

A variety of Codes of Practice and New Zealand/Australian Standards covering various aspects of the hazardous substance industry have been developed by the relevant industries, often in association with local authorities, the Department of Labour, the Environmental Protection Authority or the Ministry for the Environment. Codes of Practice are an approved means of complying with HSNO and are designed to provide guidance on how to eliminate or minimise the risk associated with hazardous substances. A good example of this is the EPA approved code of practice "Management of Agrichemicals NZS 8409:2004~~2004~~2021".'

4.4 Evidence to the hearing

- 4.4.1 In her evidence for Federated Farmers, Ms Rhea Dasent supported the recommendation of the s42A report to remove the condition on HAZS-R1 but did not think the rule is needed at all as it regulates hazardous substances that are already well managed by other means.
- 4.4.2 Mr Steven Tuck, in evidence for Silver Fern Farms, supported the s42A report recommended amendments to HAZS-R3.
- 4.4.3 Mr Graeme Roberts, for First Gas, concurred with the recommendation in the s42A report to accept in part First Gas' further submission in support of Hort NZ's submission sought to retain HAZS-R1. Mr Roberts agreed with the s42A report retaining clause (b) and supported the deletion of clause (a).

4.5 Post hearing information

- 4.5.1 In their right-of-reply of 27 October 2022, having considered the evidence of Ms Dasent for Federated Farmers and the statement of Mr Roberts for First Gas relating to Rule HAZS-R1, the reporting planner did not change their position from that in the s42A report.

4.6 Evaluation and findings

Rule HAZS-R1

- 4.6.1 The Oil Companies, NZ Defence Force, and Federated Farmers raised concerns with the permitted activity condition (Rule HAZS-R1(1)(a)) requiring that all relevant standards in the underlying zone must be complied with. The Panel agrees with the reporting planner that the reference to compliance with relevant zone standards should be deleted to clarify the intent of the rule and not inadvertently trigger a consent for storage, handling or use of hazardous substances where zone standards are not met. The Panel recommends HAZS-R1 condition 1(a) be deleted.

Rule HAZS-R3

- 4.6.2 The Panel agrees with the reporting planner, who, in response to concerns raised by the Oil Companies, recommended that Rule HASZ-R3 should focus on activities that increase the off-site risk associated with hazardous substances, and should not inadvertently apply to development undertaken at an existing facility that is unrelated to hazardous substances use or storage. The Panel therefore recommends the following amendment:

HAZS-R3 New <u>Major Hazardous Facilities</u> , or upgrading of existing, Major Hazardous Facilities <u>where this results in an increase in the quantity of hazardous substances used or stored on-site or a change in the storage method</u>		
All Zones	5. Activity Status: DIS	6. Activity status where compliance not achieved: N/A

Method HAZS-M2

- 4.6.3 The Panel agrees that the latest version of NZS 8409 should be referenced as sought by Hort NZ, and recommends the following amendment:

HAZS-M2 Codes of Practice and New Zealand/Australian Standards

A variety of Codes of Practice and New Zealand/Australian Standards covering various aspects of the hazardous substance industry have been developed by the relevant industries, often in association with local authorities, the Department of Labour, the Environmental Protection Authority or the Ministry for the Environment. Codes of Practice are an approved means of complying with HSNO and are designed to provide guidance on how to eliminate or minimise the risk associated with hazardous substances. A good example of this is the EPA approved code of practice "Management of Agrichemicals NZS 8409:2004~~2004~~**2021**".

PART C – SUMMARY OF RECOMMENDATIONS

5 Summary of recommendations

- 5.1.1 A summary table of recommended decisions for each submission point is included as Appendix B.
- 5.1.2 A tracked changes version of recommended amendments is included as Appendix A.

6 Consequential amendments and minor errors

- 6.1.1 Schedule 1, cl16(2), allows minor and inconsequential amendments to be made to the Plan. No cl16 amendments are recommended for this topic.

Appendix A – Chapters as amended

HAZARDS AND RISKS

CL – Contaminated Land

Introduction

Land can become contaminated when hazardous substances are not used, stored or disposed of in an appropriate way. Contaminated land is commonly associated with past activities, such as the manufacture and use of pesticides, timber treatment and sheep dipping. People can be exposed to contaminated land by direct contact with contaminated soil, swallowing food or water from contaminated environments and breathing vapours or contaminated dust. As well as endangering health, contamination can limit the use of land or cause corrosion that may threaten buildings and property. It is important that sites in the district identified as being potentially contaminated are investigated further so people are not exposed to contaminants that may affect their health.

The Resource Management (National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health) Regulations 2011 (NES-CS) provide a national environmental standard for activities on pieces of land where soil may be contaminated in such a way as to be a risk to human health. Regional councils are required to investigate land for the purposes of identifying and monitoring contaminated land. District Councils are responsible for applying and enforcing the provisions of National Environmental Standards.

The NES-CS contains a set of planning controls that direct the requirement for consent or otherwise for activities on contaminated or potentially contaminated land. The methods to establish whether land is contaminated, include determining whether an activity or industry listed in the Hazardous Activities and Industries List (HAIL) has or is likely to have been undertaken on the land. The NES-CS requires that land affected by contaminants is identified and assessed before it is developed and, if necessary, the land is remediated or the contaminants are contained to make that land safe for human use.

In most cases the responsibility for the management of effects on the environment arising from contaminated land will sit with the Hawke's Bay Regional Council (e.g. leaching of contaminants to waterbodies or groundwater from land development or disturbance activities).

Objectives

CL-O1 **Land containing elevated levels of contaminants Contaminated land is managed to protect human health and the environment and to enable land to be used in the future.**

Commented [A1]: S110.013 Oil Companies, Report 5A Contaminated Land & Hazardous Substances, Key Issue 1

Policies

CL-P1 **Identify sites that are known to contain, or may contain, contaminated soil as a result of land uses and activities, including current and historical land use and activities.**

CL-P2 **Require any proposal to subdivide, use or develop contaminated or potentially contaminated land to apply a best practice approach to investigate and manage risks to protect people and the environment.**

Rules

There are no rules in the District Plan with respect to contaminated land. The NES-CS manages subdivision, use and development of potentially contaminated land and may require resource consent for these activities separately. The Council holds information that may assist in establishing whether activities on the Hazardous Activities and Industries List, as defined by the NES-CS, currently or have previously operated on the land.

Methods

Methods, other than rules, for implementing the policy:

CL-M1 **Resource Management (National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health) Regulations 2011**

The NES-CS contains specific controls applying to potentially contaminated soils, including rules, as well as associated matters over which control is reserved or over which discretion is restricted, where applicable. [Regulation 5 of the NES-CS sets out the situations where the NES-CS applies.](#)

CL-M2 **Hazardous Activities and Industries List (HAIL) / Land Use Register**

The Ministry for the environment has put together the HAIL to help identify sites where contamination may have occurred.

The Hawke's Bay Regional Council maintains a land use register of properties where information is held regarding current or past land-uses that have the potential to contaminate land – this is continually under development and should not be regarded as a complete record. Information on the register is shared with local district and city councils to ensure protection of people and the environment.

Information held on the register can be requested as a site contamination report which contains information such as previous land uses, resource consents, pollution incidents and any investigations undertaken at the site (for a nominal fee). Note: the absence of available information does not necessarily mean that the property is uncontaminated; rather that no information exists on the database.

Commented [A2]: S81.060 Hort NZ, Report 5A Contaminated Land & Hazardous Substances, Key Issue 1

HAZS – Hazardous Substances

Introduction

Hazardous substances include substances such as industrial, agricultural, horticultural and household chemicals, medical wastes, petroleum products including LPG and lubricating oils, explosives and radioactive substances. Given the potential risk to the health and safety of people, hazardous substances must be managed to ensure they are located, stored and used in a safe and secure manner.

Previously regional and district councils had an explicit function to control the adverse effects of the storage, use, disposal or transportation of hazardous substances under the RMA. Since this function was first included in the RMA in 1991, the following Acts have been passed:

- Hazardous Substances and New Organisms Act 1996 (HSNO), which regulates the management, disposal, classification, packaging and transport of hazardous substances
- Health and Safety at Work Act 2015 (HSW Act), under which Worksafe New Zealand is responsible for establishing workplace controls for hazardous substances, and is the principal enforcement and guidance agency in workplaces.

Whilst the Resource Legislation Amendments 2017 changed the RMA so Councils no longer have this explicit function to control hazardous substances, they still have a broad function of achieving integrated management of the effects of the use, development, or protection of land and associated natural and physical resources of the district. To avoid duplication, the Council seeks only to control matters that are not adequately covered by other more specific legislation or regulated by the Hawke's Bay Regional Council and proposes to do this by focused provisions targeting major hazardous facilities. Council proposes to use this broad function to place extra controls on hazardous substance use under the RMA, where HSNO or Worksafe controls are not adequate to address the environmental effects of hazardous substances in any particular case.

Commented [A1]: S110.001 Oil Companies, Report 5A Contaminated Land & Hazardous Substances, Key Issue 2

Issues

HAZS-I1 If not appropriately stored and used, hazardous substances pose potential threats to the health and safety of the District's people and natural environment.

Explanation

While hazardous substances are largely controlled through other legislation, some hazardous facilities may create off site risks to people, property and the environment that may require management by the District Plan. The Council is still required by the RMA to achieve integrated management of effects, including control of any actual or potential effects associated with the storage, use, disposal, or transportation of hazardous substances.

Two issues arise from the use of hazardous substances. The first concerns the safe day-to-day use of hazardous substances. The second is the possible effects on the health and safety of people and on the natural environment involving the establishment and operation of major hazardous facilities

Commented [A2]: S110.001 Oil Companies, Report 5A Contaminated Land & Hazardous Substances, Key Issue 2

Objectives

HAZS-O1 Protect the community and natural environment from the adverse effects associated with the manufacture, use, storage or transportation of hazardous substances.

HAZS-O2 Avoid any unnecessary duplication of regulation between the Hazardous Substances and New Organisms Act 1996, [Health and Safety at Work Act 2015](#), [Regional Plan](#), and the District Plan.

Commented [A3]: S110.004 Oil Companies, Report 5A Contaminated Land & Hazardous Substances, Key Issue 2

Policies

HAZS-P1 To enable activities to utilise hazardous substances where necessary for their operations, in appropriate locations.

HAZS-P2 To ensure Major Hazardous Facilities avoid or are adequately set back from:

1. residential activities;
2. vulnerable activities;
3. the coast, historic heritage and scheduled features;
4. scheduled wāhi tapu, wāhi taonga and sites of significance;
5. priority waterbodies, including sources of potable water; and
6. identified natural hazard areas.

Commented [A4]: S110.006 Oil Companies, Report 5A Contaminated Land & Hazardous Substances, Key Issue 2

HAZS-P3 To require new or expanded Major Hazardous Facilities to demonstrate that the activity is located appropriately, having regard to the effects of the activity, the risks to the health and safety of the community, and:

1. the type, scale, duration, intensity or frequency of the activity's effects;
2. the design and site layout of the activity and its ability to internalise effects;
3. effective management and disposal of wastes containing hazardous substances;
4. any potential adverse cumulative or synergistic effects; and
5. avoidance or management of risks associated with natural hazards.

HAZS-P4 To not regulate the use, storage or transportation of hazardous substances in the District Plan where adequate levels of community and environmental protection is already provided by the Hazardous

Substances and New Organisms Act 1996, Health and Safety at Work Act 2015, or the Regional PlanTo avoid any unnecessary duplication of regulation with other statutory processes for hazardous substance activities.

Commented [A5]: S110.008 Oil Companies, S121.253 Fed Farmers, Report 5A Contaminated Land & Hazardous Substances, Key Issue 2

Rule Overview Table

Use/activity	Rule Number
The storage, handling or use of hazardous substances (except Major Hazardous Facilities)	HAZS-R1
Maintenance of existing Major Hazardous Facilities	HAZS-R2
New, or upgrading of existing, Major Hazardous Facilities	HAZS-R3

Rules

It is important to note that in addition to the provisions in this chapter, zone chapters and a number of other Part 2: District-Wide Matters chapters also contain provisions that may be relevant for activities involving the storage, handling or use of hazardous substances.

HAZS-R1 The storage, handling or use of hazardous substances (except Major Hazardous Facilities)

All Zones	1. Activity Status: PER Where the following conditions are met: a. <u>II relevant Standards in the underlying zone are complied with.</u> b-a. The activity does not involve the use of explosives within 60m of any part of the Gas Transmission Network.	2. Activity status where compliance not achieved: RDIS Matters over which discretion is restricted: a. The risk of hazards affecting public or individual safety, and the risk of property damage. b. Measures proposed to avoid or mitigate potential adverse effects on the Gas Transmission Network. c. Technical advice, including an assessment of the level of risk. d. The outcome of any consultation with the owner and operator of the Gas Transmission Network. e. Whether the use of explosives could be located a greater

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Commented [A6]: S110.009 Oil Companies, S29.017 NZ Defence Force, S121.121 Fed Farmers, Report 5A Contaminated Land & Hazardous Substances, Key Issue 3

		distance from the Gas Transmission Network.
HAZS-R2 Maintenance of existing Major Hazardous Facilities		
All Zones	1. Activity Status: PER Where the following conditions are met: N/A	2. Activity status where compliance not achieved: N/A
HAZS-R3 New <u>Major Hazardous Facilities</u>, or upgrading of existing, Major Hazardous Facilities <u>where this results in an increase in the quantity of hazardous substances used or stored on-site or a change in the storage method</u>		
All Zones	1. Activity Status: DIS	2. Activity status where compliance not achieved: N/A

Commented [A7]: S110.011 Oil Companies, Report 5A Contaminated Land & Hazardous Substances, Key Issue 3

Assessment Matters

For Discretionary Activities, Council's assessment is not restricted to these matters, but it may consider them (among other factors).

HAZS-AM1 Risk Assessment

The outcomes of a risk assessment, focusing on the following issues:

1. Assessment of the probability and potential consequences of an accident leading to the release or loss of control of hazardous substances. This assessment should focus on the ability of the design and management of the site to avoid accidents, such as spill containment measures, fire safety and fire water management, emergency management, site drainage and off-site infrastructure (e.g. stormwater drainage system, sewer type and capacity) and the disposal of waste containing hazardous substances.
2. Potential risk and effect on people and neighbouring activities, with emphasis on sensitive activities, such as residential activities, educational facilities, marae and urupā.
3. Potential risk and effects on natural ecosystems and the life supporting capacity of land and water, including waterbodies, sources of potable water and the Ruataniwha Unconfined Aquifer.
4. Potential risk and effects on wāhi tapu, wāhi taonga and sites of significance, sites of historical or archaeological significance, Significant Natural Areas, Outstanding Natural Features and Landscapes, and Significant Amenity Features.
5. The potential for natural hazards to impact on the operation of the hazardous facility.
6. The potential for cumulative adverse effects of hazardous substances.

HAZS-AM2 Risk Mitigation and Management

1. Consideration will be given to the adoption of specific spill contingency plans, emergency procedures, stormwater management and treatment and disposal procedures for wastes containing hazardous substances, fire safety, monitoring and maintenance procedures, and appropriate management systems.

HAZS-AM3 Alternatives

1. Where it is likely that an activity may result in significant adverse effects on the environment, a description of alternative locations or methods for undertaking the activity must be submitted.

HAZS-AM4 Traffic Safety

1. It should be demonstrated that the proposal will generate no significant adverse effects on the safety of the operation of the adjoining road network and that vehicles transporting hazardous substances will not utilise local roads in residential areas as a regular means of transport. Conditions may be imposed that require access along specified routes.

HAZS-AM5 Other Matters

1. Any other matters that may need conditions to ensure that particular measures are undertaken so that any risk posed by the proposal is avoided or satisfactorily mitigated.

Methods

Methods, other than rules, for implementing the policies:

HAZS-M1 Hazardous Substances and New Organisms Act 1996

HSNO requires that hazardous facilities may require a location test certificate, approved handler test certificates and/or a stationary container test certificate, dependent on the type and quantity of hazardous substances held at a site.

The HSNO Act requires that when considering an application, the EPA must assess the environmental risks. It must examine issues such as the risk of an organism escaping from a laboratory or the risk of contamination of surrounding plants by pollen from GMOs. In the case of field tests, the EPA must require that they be carried out under strict conditions to reduce any potential risk to the environment. It must also ensure that genetic material is not released outside the field test site and that this material is destroyed once the test is finished.

Other Legislation: Other legislation that includes provisions relating to the use, storage, disposal or transportation of hazardous substances includes: the Building Act 2004, Health and Safety at Work Act 2015, the Land Transport Rule: Dangerous Goods 2005, the Land Transport Rule: Dangerous Goods Amendment 2010 and the Civil Defence Act 1983.

HAZS-M2 Codes of Practice and New Zealand/Australian Standards

A variety of Codes of Practice and New Zealand/Australian Standards covering various aspects of the hazardous substance industry have been developed by the relevant industries, often in association with local authorities, the Department of Labour, the Environmental Protection Authority or the Ministry for the Environment. Codes of Practice are an approved means of complying with HSNO and are designed to provide guidance on how to eliminate or minimise the risk associated with hazardous substances. A good example of this is the EPA approved code of practice "[Management of Agrichemicals NZS 8409:20212004](#)".

Commented [A8]: S81.064 Hort NZ, Report 5A Contaminated Land & Hazardous Substances, Key Issue 3

HAZS-M3 Hawke's Bay Regional Council

The Hawke's Bay Regional Council (HBRC) is also involved in the management of hazardous substances. The HBRC has responsibility for hazardous substances as they relate to the discharge of contaminants to air, water and land as defined by section 15 of the RMA. The HBRC will also have responsibility for the use, storage, and transportation of hazardous substances where these are associated with the control of the use of land of any river or lake under section 13 of the RMA. They also assist in the safe disposal of hazardous substances.

HAZS-M4 Resource Management (National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health) Regulations 2012

All territorial authorities are required to give effect to and enforce the requirements of the National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health (NES-CS).

These regulations provide a nationally consistent set of planning controls and soil contaminant values and ensure that land affected by contaminants is appropriately identified and assessed before it is developed and if necessary the land is remediated or the contaminants contained to make the land safe for use.

Resource consent information and monitoring data can be collated to inform the identification of land affected by contaminants in soil.

Principal Reasons

The principal reasons for adopting the policies and methods:

The HSNO Act 1996 provides the general framework for controlling hazardous substances during their entire lifecycle. Requirements apply from manufacturing or importing a substance, through its use, to disposal. This 'cradle-to-grave' approach is intended to ensure that the specific adverse effects posed by hazardous substances are managed consistently and comprehensively.

On Ministry for the Environment advice, the District Plan takes the approach that hazardous facilities are generally managed adequately through the HSNO Act. Compliance with this legislation will generally ensure that any adverse effects arising from an accident or incident will be contained within the hazardous facility site.

In addition, the Resource Management (National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health) Regulations 2012 (NES-CS) addresses subdivision, use and development of potentially contaminated land.

The District Plan therefore seeks to avoid any duplication of regulation with the HSNO Act, and only contains rules in relation to Major Hazardous Facilities.

Anticipated Environmental Results

The environmental results anticipated from the policies and methods:

- | | |
|------------------|---|
| HAZS-AER1 | Activities utilise hazardous substances where necessary for their operations, in appropriate locations. |
| HAZS-AER2 | Avoidance or mitigation of adverse effects from the storage and use of hazardous substances in the District. |

Appendix B – Summary of recommendations on submissions

Table: Summary of recommended decisions on submissions and further submissions

Contaminated Land

Submission Point	Submitter/Further Submitter Name	Plan Provision	Summary of Decision Requested	Key Issue Reference	Officer Recommendation (as per s42A report unless otherwise specified)	Panel Recommendation	Amendments to Proposed Plan?
S11.013	Hawke's Bay Regional Council	CL - Contaminated Land	No changes.	Key Issue 1	Accept	Accept	No
.							
S81.060	Horticulture New Zealand	CL-M1	Add a new sentence in CL-M1 as follows: 'The NES-CS contains specific controls applying to potentially contaminated soils, including rules, as well as associated matters over which control is reserved or over which discretion is restricted, where applicable. The NES-CS does not apply to primary production land where the land continues to be used for production purposes. Only when the land use changes will the NES-CS apply. '	Key Issue 1	Accept in part	Accept in part	Yes
.							
S110.012	Z Energy Ltd, BP Oil NZ Ltd, Mobil Oil NZ Ltd (the Oil Companies)	CL - Introduction	Retain 'CL - Introduction' as notified.	Key Issue 1	Accept	Accept	No
.							
S110.013	Z Energy Ltd, BP Oil NZ Ltd, Mobil Oil NZ Ltd (the Oil Companies)	CL-O1	Amend CL-O1 as follows: ' Land containing elevated levels of contaminants Contaminated land is managed to protect human health and the environment and to enable land to be used in the future.'	Key Issue 1	Accept	Accept	Yes
FS17.32	Horticulture New Zealand		Allow	Key Issue 1	Accept	Accept	
S110.014	Z Energy Ltd, BP Oil NZ Ltd, Mobil Oil NZ Ltd (the Oil Companies)	CL-P1	Retain CL-P1 as notified.	Key Issue 1	Accept	Accept	No
.							
S110.015	Z Energy Ltd, BP Oil NZ Ltd, Mobil Oil NZ Ltd (the Oil Companies)	CL-P2	Retain CL-P2 as notified.	Key Issue 1	Accept	Accept	No
.							

Hazardous Substances

Proposed Central Hawke's Bay District Plan

Panel Report: Contaminated Land and Hazardous Substances

Submission Point	Submitter/Further Submitter Name	Plan Provision	Summary of Decision Requested	Key Issue Reference	Officer Recommendation (as per s42A report unless otherwise specified)	Panel Recommendation	Amendments to Proposed Plan?
S11.014	Hawke's Bay Regional Council	HAZS - Hazardous Substances	No change	Key Issue 2	Accept in part	Accept in part	No
.							
S29.001	New Zealand Defence Force	MAJOR HAZARDOUS FACILITY (Definition)	Retain definition as notified.	Key Issue 2	Accept in part	Accept in part	No
.							
S29.017	New Zealand Defence Force	HAZS-R1	Clarify what standards apply to the storage, handling or use of hazardous substances.	Key Issue 3	Accept	Accept	Yes
.							
S57.004	Fire and Emergency New Zealand	HAZARDOUS SUBSTANCE (Definition)	Retain the definition of 'Hazardous Substance' as notified.	Key Issue 2	Accept	Accept	No
.							
S57.006	Fire and Emergency New Zealand	MAJOR HAZARDOUS FACILITY (Definition)	Amend the definition of 'Major Hazardous Facility' as follows: 'a. any facility which involves one or more of the following activities: ... xvii. The storage and/or treatment of hazardous waste (including reuse and recycling facilities) or hazardous substances awaiting reuse, recycling, or treatment. xviii. Any facility deemed a Major Hazardous Facility under the Health and Safety at Work Major Hazardous Facilities Regulations 2016 ... b. The following activities are not considered to be major hazardous facilities ... x. Emergency service activities.'	Key Issue 2	Accept in part	Accept in part	Yes
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S57.033	Fire and Emergency New Zealand	HAZS-O1	Retain HAZS-O1 as notified.	Key Issue 2	Accept	Accept	No
.							
S57.034	Fire and Emergency New Zealand	HAZS-O2	Retain HAZS-O2 as notified.	Key Issue 2	Accept in part	Accept in part	No
.							
S57.035	Fire and Emergency New Zealand	HAZS-P1	Retain HAZS-P1 as notified.	Key Issue 2	Accept	Accept	No
.							

Submission Point	Submitter/Further Submitter Name	Plan Provision	Summary of Decision Requested	Key Issue Reference	Officer Recommendation (as per s42A report unless otherwise specified)	Panel Recommendation	Amendments to Proposed Plan?
S57.036	Fire and Emergency New Zealand	HAZS-P2	Retain HAZS-P2 as notified.	Key Issue 2	Accept	Reject (HAZS-P2 is recommended to be deleted – S110.006)	No
S57.037	Fire and Emergency New Zealand	HAZS-P3	Retain HAZS-P3 as notified.	Key Issue 2	Accept	Accept	No
S57.038	Fire and Emergency New Zealand	HAZS-P4	Retain HAZS-P4 as notified.	Key Issue 2	Reject	Reject	No
S57.039	Fire and Emergency New Zealand	HAZS-R1	Retain HAZS-R1 as notified.	Key Issue 3	Accept in part	Accept in part	No
S57.040	Fire and Emergency New Zealand	HAZS-R3	Retain HAZS-R3 as notified.	Key Issue 3	Accept in part	Accept in part	No
S57.041	Fire and Emergency New Zealand	HAZS-AM1	Retain HAZS-AM1 as notified.	Key Issue 3	Accept	Accept	No
S57.042	Fire and Emergency New Zealand	HAZS-AM2	Retain HAZS-AM2 as notified.	Key Issue 3	Accept	Accept	No
S81.020	Horticulture New Zealand	MAJOR HAZARDOUS FACILITY (Definition)	Retain the definition of 'Major Hazardous Facility'.	Key Issue 2	Accept in part	Accept in part	No
S81.061	Horticulture New Zealand	HAZS-O2	Retain HAZS-O2.	Key Issue 2	Accept in part	Accept in part	No
S81.062	Horticulture New Zealand	HAZS-P1	Retain HAZS-P1.	Key Issue 2	Accept	Accept	No
S81.063	Horticulture New Zealand	HAZS-R1	Retain HAZS-R1.	Key Issue 3	Accept in part	Accept in part	No
FS3.013	First Gas Limited		Allow	Key Issue 3	Accept	Accept	

Submission Point	Submitter/Further Submitter Name	Plan Provision	Summary of Decision Requested	Key Issue Reference	Officer Recommendation (as per s42A report unless otherwise specified)	Panel Recommendation	Amendments to Proposed Plan?
S81.064	Horticulture New Zealand	HAZS-M2	Amend HAZS-M3[HAZS-M2?] as follows: '... Codes of Practice are an approved means of complying with HSNO and are designed to provide guidance on how to eliminate or minimise the risk associated with hazardous substances. A good example of this is the EPA approved code of practice "Management of Agrichemicals NZS 8409:20042021".'	Key Issue 3	Accept	Accept	Yes
.							
S110.001	Z Energy Ltd, BP Oil NZ Ltd, Mobil Oil NZ Ltd (the Oil Companies)	HAZS - Introduction	Amend the final paragraph of 'HAZS - Introduction' as follows: 'While the Resource Legislation Amendments 2017 changed the RMA so Councils no longer have this the explicit function to control hazardous substances, they. Councils still have a broad function of achieving integrated management of the effects of the use, development, or protection of land and associated natural and physical resources of the district. To avoid duplication, the Council seeks only to control matters that are not adequately covered by other more specific legislation or regulated by the Hawke's Bay Regional Council and proposes to do this by focused provisions targeting major hazardous facilities. Council proposes to use this broad function to place extra controls on hazardous substance use under the RMA, where HSNO or Worksafe controls are not adequate to address the environmental effects of hazardous substances in any particular case.'	Key Issue 2	Accept	Accept	Yes
FS17.33	Horticulture New Zealand		Allow	Key Issue 2	Accept	Accept	
S110.002	Z Energy Ltd, BP Oil NZ Ltd, Mobil Oil NZ Ltd (the Oil Companies)	HAZS-I1	Amend the explanation to HAZS-I1 as follows: 'While hazardous substances are largely controlled through other legislation, some hazardous facilities may create off site risks to people, property and the environment. the Council is still required by the RMA to achieve integrated management of effects, including control of any actual or potential effects associated with the storage, use, disposal, or transportation of hazardous substances. Two issues arise from the use of hazardous substances. The first concerns the safe day-to-day use of hazardous substances. The second is the possible effects on the health and safety of people and on the natural environment involving the establishment and operation of major hazardous facilities.'	Key Issue 2	Accept	Accept in part	Yes
FS17.34	Horticulture New Zealand		Allow	Key Issue 2	Accept	Accept	
S110.003	Z Energy Ltd, BP Oil NZ Ltd, Mobil Oil NZ Ltd (the Oil Companies)	HAZS-O1	Retain HAZS-O1 as notified.	Key Issue 2	Accept	Accept	No
.							
S110.004	Z Energy Ltd, BP Oil NZ Ltd, Mobil Oil NZ Ltd (the Oil Companies)	HAZS-O2	Amend HAZS-O2 as follows: 'Avoid any unnecessary duplication of regulation between the Hazardous Substances and New Organisms Act 1996, Health and Safety at Work Act 2015, Regional Plan, and the District Plan.'	Key Issue 2	Accept	Accept	Yes

Proposed Central Hawke's Bay District Plan

Panel Report: Contaminated Land and Hazardous Substances

Submission Point	Submitter/Further Submitter Name	Plan Provision	Summary of Decision Requested	Key Issue Reference	Officer Recommendation (as per s42A report unless otherwise specified)	Panel Recommendation	Amendments to Proposed Plan?
.							
S110.005	Z Energy Ltd, BP Oil NZ Ltd, Mobil Oil NZ Ltd (the Oil Companies)	HAZS-P1	Retain HAZS-P1 as notified.	Key Issue 2	Accept	Accept	No
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S110.006	Z Energy Ltd, BP Oil NZ Ltd, Mobil Oil NZ Ltd (the Oil Companies)	HAZS-P2	Delete HAZS-P2.	Key Issue 2	Accept	Accept	Yes
.							
S110.007	Z Energy Ltd, BP Oil NZ Ltd, Mobil Oil NZ Ltd (the Oil Companies)	HAZS-P3	Retain HAZS-P3 as notified.	Key Issue 2	Accept	Accept	No
.							
S110.008	Z Energy Ltd, BP Oil NZ Ltd, Mobil Oil NZ Ltd (the Oil Companies)	HAZS-P4	Delete HAZS-P4.	Key Issue 2	Accept	Accept	Yes
.							
S110.009	Z Energy Ltd, BP Oil NZ Ltd, Mobil Oil NZ Ltd (the Oil Companies)	HAZS-R1	Amend HAZS-R1 as follows: '1. Activity Status: PER Where the following conditions are met: a. All relevant standards in the underlying zone are complied with. b. ...'	Key Issue 3	Accept	Accept	Yes
FS12.4	New Zealand Defence Force		Allow Accept the submitter's relief sought or include permitted activity standards specific to the storage, handling or use of hazardous substances within rule HAZS-R1.	Key Issue 3	Accept	Accept	
S110.010	Z Energy Ltd, BP Oil NZ Ltd, Mobil Oil NZ Ltd (the Oil Companies)	HAZS-R2	Retain HAZS-R2 as notified	Key Issue 3	Accept	Accept	No
.							
S110.011	Z Energy Ltd, BP Oil NZ Ltd, Mobil Oil NZ Ltd (the Oil Companies)	HAZS-R3	Amend HAZS-R3 such that it only applies to new 'Major Hazardous Facilities' or existing 'Major Hazardous Facilities' which are increasing potential off-site risk associated with the storage, use, or manufacture of hazardous substances.	Key Issue 3	Accept	Accept	Yes
FS8.026	Silver Fern Farms Limited		Allow	Key Issue 3	Accept	Accept	
S110.018	Z Energy Ltd, BP Oil NZ Ltd, Mobil Oil NZ Ltd (the Oil Companies)	MAJOR HAZARDOUS FACILITY (Definition)	Reconsider the need for hazardous substance controls based on the broad definition of 'Major Hazardous Facilities'. If a broad definition can be justified, retain clauses to the effect of a(iii) and b(v) of the definition as notified.	Key Issue 2	Accept in part	Accept in part	No
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Submission Point	Submitter/Further Submitter Name	Plan Provision	Summary of Decision Requested	Key Issue Reference	Officer Recommendation (as per s42A report unless otherwise specified)	Panel Recommendation	Amendments to Proposed Plan?
S116.001	Silver Fern Farms Limited	MAJOR HAZARDOUS FACILITY (Definition)	Amend the definition of 'Major Hazardous Facility' as follows: 'a. any facility which involves one or more of the following activities: ... ix. meat processing freezing works and rendering plants ... b.'	Key Issue 2	Accept	Accept	Yes
S116.002	Silver Fern Farms Limited	OFFENSIVE PROCESS (Definition)	Amend the definition of 'Offensive Process' as follows: 'means one of the following processes: a. processes requiring offensive trade licenses under the Health Act 1956; b. the manufacture and processing of chemical fertilisers; c. meat processing or any associated processing of meat and meat by-products or co-products; ...'	Key Issue 2	Reject	Reject	No
S116.019	Silver Fern Farms Limited	HAZS-P2	Amendments to the definition of 'Major Hazardous Facility' [refer submission point S116.001] and UFD-O2 [refer submission point S116.017], as sought.	Key Issue 2	Accept in part	Accept in part	No
S121.119	Federated Farmers of New Zealand	HAZS-O2	Retain HAZS-O2 as proposed.	Key Issue 2	Accept in part	Accept in part	No
FS9.119	Royal Forest and Bird Protection Society of New Zealand Incorporated		Disallow	Key Issue 2	Reject	Reject	
S121.120	Federated Farmers of New Zealand	HAZS-P1	Retain HAZS-P1 as proposed.	Key Issue 2	Accept	Accept	No
FS9.120	Royal Forest and Bird Protection Society of New Zealand Incorporated		Disallow	Key Issue 2	Reject	Reject	
S121.121	Federated Farmers of New Zealand	HAZS-R1	Delete HAZS-R1. And add a new policy [refer submission point S121.253].	Key Issue 3	Accept in part	Accept in part	Yes
FS3.014	First Gas Limited		Disallow	Key Issue 3	Accept in part	Accept in part	
FS9.121	Royal Forest and Bird Protection Society of New Zealand Incorporated		Disallow	Key Issue 3	Reject	Reject	
S121.240	Federated Farmers of New Zealand	MAJOR HAZARDOUS FACILITY (Definition)	Retain clause (b) in the definition of 'Major Hazardous Facility' as proposed.	Key Issue 2	Accept in part	Accept in part	No
FS9.240	Royal Forest and Bird Protection Society of New Zealand Incorporated		Disallow	Key Issue 2	Reject	Reject	

Submission Point	Submitter/Further Submitter Name	Plan Provision	Summary of Decision Requested	Key Issue Reference	Officer Recommendation (as per s42A report unless otherwise specified)	Panel Recommendation	Amendments to Proposed Plan?
S121.253	Federated Farmers of New Zealand	HAZS-PXX (new policy)	And add a new policy in the 'HAZS - Hazardous Substances' chapter in the Proposed Plan as follows: 'To not regulate the use, storage or transportation of hazardous substances, in the District Plan where adequate levels of community and environmental protection is already provided by the Hazardous Substances and New Organisms Act 1996 or other legislation and regulation.'	Key Issue 2	Accept in part	Accept in part	Yes
FS9.253	Royal Forest and Bird Protection Society of New Zealand Incorporated		Disallow	Key Issue 2	Reject	Reject	
FS17.35	Horticulture New Zealand		Allow in part Accept submission in place of HAZS-P4.	Key Issue 2	Accept	Accept	