

# **Section 32 Report**

## **Matū mōrearea/ Hazardous Substances**

prepared for the

# **Proposed Waimakariri District Plan**

**18 September 2021**



**WAIMAKARIRI**  
DISTRICT COUNCIL

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## a) EXECUTIVE SUMMARY

Hazardous substance use, storage and disposal is important for many activities but can adversely affect the health and safety of people, property and the natural environment, and require management to ensure the ongoing wellbeing of the community and the wider environment.

The Resource Legislation Amendment Act 2017 changed sections 30 and 31 of the Resource Management Act 1991 (RMA) to remove the need for District Plans to control hazardous substances. Councils may still control any residual effects related to the RMA that are not covered by Hazardous Substances and New Organisms Act (HSNO) 1996, the Health and Safety at Work Act (HSWA) 2015, Health and Safety at Work (Major Hazard Facilities) Regulations 2016, and Safety at Work (Hazardous Substances) Regulations 2017.

The Operative District Plan manages the storage, use, disposal and transportation of hazardous substances, and specifies maximum quantities of hazardous substances stored on sites in various zones, and the location of activities using hazardous substances in relation to the transportation network.

The Proposed District Plan provisions differ from the Operative Plan approach and reflect the legislative amendments and requirements of the National Planning Standards 2019. The focus is now on RMA effects not covered by HSNO or HSW Acts (residual effects). The proposed provisions are identified as the most appropriate to achieve the purpose of the Resource Management Act 1991.

The key resource management issues are risk to human health, property and the environment in relation to new major hazardous facilities, effects on any sensitive areas, potential for reverse sensitivity effects arising if activities sensitive to major hazard facilities establish in the surrounding environment and ensuring hazardous substances are adequately managed in areas identified as prone to natural hazards.

The following main changes are proposed:

- (a) The inclusion of a new Hazardous Substances Chapter with objectives, policies, rules and standards to manage residual risk from hazardous substance use, storage and disposal on health, safety and the environment.
- (b) The proposed chapter has replaced regulation of the quantities of hazardous substances that may be stored with new activity and zone-based rules focused on the location of major facilities and any sensitive activities, including locations prone to natural hazards.
- (c) Hazardous substance use is generally permitted except where further assessment is required including the location of major hazard facilities. The chapter recognises the different environmental expectations within zones and overlays, including areas with specific natural or cultural values.

## 2. OVERVIEW AND PURPOSE

### 2.1 Purpose of Section 32 RMA

The overarching purpose of Section 32 of the Resource Management Act 1991 (RMA) is to ensure that plans are developed using sound evidence and rigorous policy analysis, leading to more robust and enduring provisions.

Section 32 reports are intended to clearly and transparently communicate the reasoning behind plan provisions to the public. The report should provide a record of the evaluation process, including the consultation, technical work, methods, assumptions and risks that informed that process. A robust report can prove highly useful to decision makers, particularly where it clearly communicates the analysis undertaken to identify the most appropriate way to achieve the purpose of the RMA.

The District Council is required to undertake an evaluation of any proposed District Plan provisions before notifying those provisions. The Section 32 evaluation report provides the reasoning and rationale for the proposed provisions and should be read in conjunction with those provisions.

### 2.2 Topic Description

The use, storage and disposal of hazardous substances is principally regulated by the Hazardous Substances and New Organisms Act (HSNO) 1996, the Health and Safety at Work Act (HSWA) 2015, Health and Safety at Work (Major Hazard Facilities) Regulations 2016, and Safety at Work (Hazardous Substances) Regulations 2017.

Since the current District Plan for Waimakariri District became operative in 2005, amendment to legislation has removed the requirement for district plans to control hazardous substances, and the expectation is that HSNO and Worksafe controls will be generally adequate to avoid, remedy or mitigate adverse effects, including potential effects, from hazardous substances.

The District Plan may provide for residual matters (not specifically controlled by other legislation), including storage of hazardous substances in areas prone to natural hazards, any cumulative effects, reverse sensitivity effects, and effects relating to location of activities, including major hazard activities.

### 2.3 Significance of this Topic

The significance of the management of any residual hazardous substances issues through the District Plan relates to the risk associated with the location of activities involving hazardous substances in relation to sensitive activities or areas, or locations known to be prone to natural hazards.

The main issues identified are the protection of sensitive areas and activities from major hazard facilities, ensuring safe storage of hazardous substances within locations prone to natural hazards and controlling reverse sensitivity effects on existing major hazard facilities. These issues focus on human health and safety, but also include effects on the natural environment and on property.

The use of hazardous substances is recognised as essential for a range of activities that support the community and economy within the District, however, the importance of both identifying and mitigating any potential risk is also recognised, particularly in relation to major hazard facilities.

## 2.4 Current Objectives, Policies and Methods

The Operative Plan is effects-based and considers hazardous substances within chapters alongside other issues related to health, safety and wellbeing. There are separate chapters for objectives, policies and their associated explanations, and for rules.

There is one relevant objective that requires avoidance or mitigation of adverse effects from hazardous substances (among other matters) with a focus on maintaining amenity values, environmental quality, health, safety and wellbeing. There are four specific policies that address secure storage, mitigation of adverse effects through choice of location or methodology, location in relation to the transport network and the need to coordinate hazardous substances management with national and regional agencies. There is an expectation that programmes outside the District Plan will also be used, such as public education and liaison with the industrial sector.

The Operative Plan rules focus on the management of effects rather than particular activities, and include rules for storage to prevent escape and subsequent contamination of water. This requires that a spill management contingency plan be held on site. Maximum volumes for hazardous substances per site are also specified. Where these are met, general rules apply, but where volumes are exceeded, resource consent assessment is required. Where rules/conditions are not met, activities are assessed as a Restricted Discretionary Activity, with a wide range of matters of assessment set out.

Exemptions to the rules are provided for small scale activities such as domestic and agricultural use of hazardous substances.

## 2.5 Information and Analysis

### 2.5.1 District Plan Effectiveness Review

A review of the effectiveness of the District Plan was conducted in 2016, including assessment of hazardous substances provisions as part of the 'quality of the environment' segment of the review. The review included interviews with compliance and environmental services staff.

The District Plan Effectiveness Review identified the following gaps or duplication:

- The District Plan should not duplicate the functions under HSNO or Worksafe legislation, or those undertaken by the Canterbury Regional Council
- Zone interface issues in relation to hazardous substances use should be addressed in the District Plan Review;
- Identification of specific activities in relation to hazardous substances (rather relying solely on effects identification and management) would be beneficial for District Plan enforcement;
- Complaints had been recorded from residential areas near activities using and storing hazardous substances;
- Canterbury Regional Council advised that activities related to hazardous substances should be managed in relation to risk posed.

A gap analysis was carried out to better understand the management of hazardous substances by central government agencies and the Canterbury Regional Council and to establish where residual issues may need to be managed through the District Plan.

### **2.5.2 Case law**

The Taranaki Energy Watch Inc. v South Taranaki District Council 2020 NZEnvC 165 was reviewed, along with the four interim decisions, in relation to District Plan management of unacceptable risk from significant hazardous facilities, particularly in relation to petroleum exploration and petroleum production. These cases consider appropriate district plan management of the location of significant hazardous facilities in relation to sensitive activities, and considers the use of setbacks and risk contours. While this is a relevant consideration, given the low level of major hazardous facilities and activities in Waimakariri District and lack of certainty of any future development, requiring a set separation distance is not the preferred option and individually assessed setbacks through a risk assessment process is considered to be a more effective and efficient response.

### **2.5.3 Hazardous Activities and Industries List (HAIL) (Ministry for the Environment)**

This is a list of activities and industries that potentially could cause land contamination.

### **2.5.4 Listed Land Use Register (LLUR) (Canterbury Regional Council)**

This is a publicly available database of sites where hazardous activities and industries have been located throughout Canterbury. The Canterbury Regional Council has identified these sites and maintained the database for some years. Research projects into historical land use are conducted on a district-by-district basis, starting in 2014 and due to finish in 2022.

### **2.5.5 Major Hazard Facilities MHF Public Information (Worksafe)**

Worksafe New Zealand (Worksafe) provide public information about designated major hazard facilities.

Following designation of a major hazard facility, Worksafe must provide prescribed information to the public on our website in accordance with regulation 68 of the Health and Safety at Work (Major Hazard Facilities) Regulations 2016 (the regulations). Note that where disclosure of information may lead to a threat to the security of a major hazard facility, therefore the major hazard facility may not be listed.

### **2.5.6 Major Hazard Facility Information for Territorial Authorities (Worksafe)**

This fact sheet provides general information for territorial authorities about Major Hazard Facilities (MHFs) and the roles of WorkSafe New Zealand (WorkSafe), territorial authorities and MHF operators.

### **2.5.7 Hazardous Substances and New Organisms Policy Statement 2008 (Te Rūnanga o Ngāi Tahu)**

A resource for consultation, assessment and decision making based on Ngāi Tahu values, principles and mātauranga.

## 2.6 Consultation Undertaken

Consultation has been undertaken as part of this District Plan Review process with key stakeholders and the local community. Feedback from consultation relevant to the Hazardous Substances Chapter is summarised below:

Summary of feedback:

Date	Group	Subject Matter	Feedback	Response
Seven weeks, closing on 27 October 2017	Community	Issues and Options: The main issues from the District Plan Effectiveness Review were included in Issues and Options discussion documents that were publically consulted	Management of hazardous substances was not identified as significant separate issue for consultation, however comments were received as follows: <ul style="list-style-type: none"> <li>i. Neutralisation of contaminants should occur on site before discharge.</li> <li>ii. More enabling provisions should be developed for a standalone utilities, including those for hazardous substances.</li> <li>iii. New Zealand has a national regulatory framework for hazardous substances management and the District Plan should not be inconsistent with that framework.</li> </ul>	Canterbury Regional Council manage discharges to land, air and water.  A separate Energy and Infrastructure Chapter has been included and hazardous substances management is mainly achieved outside of the District Plan control - through other regulation. The Hazardous Substances Chapter is restricted to residual RMA related matters
Various dates 2017-2018	Waimakariri District Council Compliance, Environme	Hazardous substance management issues	Environmental services staff identified that fuel storage leakage, containment and storage of tyres should be further considered. Emergency Management staff advised that workplace storage of hazardous substances is checked, but private storage was not identified. In regard to solid waste asset management, it was considered that other legislation provided effective coverage of issues.	Hazardous substances legislation and regional council requirements will respond to most of these issues, and tyre storage can be managed through storage rules within rural zones.

	ntal Services, Emergency Management and Solid Waste Staff			
21 February 2019	Waimakariri District Council Technical Advisory Group (TAG)	Hazardous substance management direction	Issues with management of hazardous substances locations through an effects-based plan structure were identified.	The Proposed District Plan has an activities-based approach that will take location and zone sensitivity into account.
	Other Local Authority Planning Staff	Hazardous substance management	<p>Christchurch City Council have recently reviewed their District Plan and identified that any features of the District that were sensitive to hazardous substances should be identified.</p> <p>Selwyn District Council staff noted residual effects such as location of activities and the sensitivity of zones.</p> <p>Planning staff at South Taranaki District Council were contacted about its notified hazardous substances provisions which at the time were subject of an appeal to the Environment Court. Planning staff identified that determination of what is an appropriate setback is still unresolved, however the use of quantitative risk assessment as part of resource consent applications is helpful in determining effects on sensitive areas or activities nearby. As the District has many major hazard facilities associated with petro-chemicals investigation into the management of location of major hazard facility in relation to sensitive activities is a significant matter.</p>	<p>Sensitive sites have been recognised, for example, sites and areas of significance to Maori, and areas prone to natural hazards.</p> <p>These matters have been incorporated in the proposed provisions.</p> <p>A risk assessment process has been proposed for major hazard facilities. However, the Proposed Plan recognises the lower level of risk in Waimakariri District where there is one existing lower tier major hazard facility identified by Worksafe MHF Public Information.</p>



	Canterbury Regional Council Planning Staff		<p>It was noted that the Canterbury Air Regional Plan and the Land and Water Regional Plan both managed discharge of hazardous substances. Possible gaps were identified for management of reverse sensitivity, amenity, and storage within areas subject to natural hazards. Locations of special sensitivity may also require additional location controls. In relation to natural hazards, staff involved with contamination commented that the controls for storage of hazards that were below the thresholds set in the Regulations may not fully address containment in areas subject to floodwater, and the District Plan could address this matter.</p>	<p>The proposed provisions ensure that hazardous facilities located in sensitive areas, and areas prone to natural hazards would require resource consent assessment to ensure safe storage of hazardous substances in the event of a 0.5% AEP flood.</p> <p>There are rules for the location of major hazard facilities with higher activity status if located in a SNA or SASM.</p>
	Environmental Protection Authority (EPA) and Worksafe		<p>The EPA and Worksafe were consulted, who advised that District Plan controls for hazardous substances should not replicate the function of HSNO and the Health and Safety at Work Act, but could manage location through zoning, e.g. not allowing industry in residential areas. It was also noted that some additional rules relating to major hazard facilities and natural hazards may possibly be required and setbacks could be considered.</p>	<p>The approach taken in the Proposed District Plan is consistent with this, with residual matters being largely regulated by zone or district wide provisions. There are rules for the location of any new major hazard facility or addition to a major hazard facility.</p>
Mid-2019	Community	‘What’s the Plan’ Consultation on proposed directions for the District Plan Review	<p>Hazardous substances was not specifically consulted on as the direction had not been confirmed, however responses from two parties were received. Both respondents identified that legislation and regional plans were the primary mechanism for managing hazardous substances.</p> <p>Feedback included the following:</p> <ul style="list-style-type: none"> <li>• Reverse sensitivity should be managed</li> <li>• Need to comprehensively revisit hazardous substances approach in the District Plan Review</li> </ul>	<p>All of the matters raised are addressed within the proposed provisions in line with legislative reform and new regional plans. The focus is on residual effects. A definition of ‘hazardous facility’ has been incorporated. It is non-complying for sensitive activities to be located within the site of any major hazard facility or</p>

			<ul style="list-style-type: none"> <li>• A clear definition of ‘hazardous facility’ should be provided</li> <li>• Need to identify any residual effects/risks that require management (over and above other legislative and regional controls)</li> <li>• Should consider residual effects and risk contours/separation distances</li> </ul>	within any Risk Management Contour.
4 June 2019	District Planning and Regulatory Committee (DPRC)	Issues and proposed direction for the hazardous substances chapter.	<p>The Committee provided the following direction:</p> <ul style="list-style-type: none"> <li>• analysis would be required for setbacks if they were to be used;</li> <li>• clear identification of risk is required;</li> <li>• a strong direction not to replicate other legislation;</li> <li>• clarity was sought on assessment of risk rather than other amenity issues such as appearance or noise, which could be managed by zone requirements; and</li> <li>• be consistent across Canterbury where managing similar risk.</li> </ul>	<p>The proposed provisions considered the development of setback distances to provide separation between hazardous facilities and sensitive activities, however as few major hazard facilities are anticipated in the District, individual assessment of risk as part of a resource consent process was considered to be more effective and efficient. Setbacks from waterbodies are required through regional planning controls.</p> <p>An integrated approach to hazardous substance management is also proposed, avoiding duplication of higher-order planning requirements.</p>

<p>19 March 2021</p>	<p>ECan</p>	<p>First schedule feedback</p>	<p>Change suggested:</p> <ol style="list-style-type: none"> <li>1. Align Objective HS-01 with Ch 18 the CRPS, including having a broader focus on all high hazard areas, and give effect to Policy 18.3.1 in regard to avoiding actual and potential adverse effects on sensitive areas and activities as set out in that policy. Any consequential amendments to the policies.</li> <li>2. Consider rules for storage and use of hazardous substances in hazard areas other than flood overlays.</li> <li>3. Identify the Major Hazard Facilities that are located within the district through the district plan maps or a reference to external mapping.</li> </ol> <p>Comments:</p> <ol style="list-style-type: none"> <li>1. The objective focusses on managing risks from flood events (although Policy HS-P1 refers more generally to High Hazard Areas). Objective 18.2.1 in the CRPS seeks that adverse effects from hazardous substances to be avoided, remedied or mitigated. However, Policy 18.3.1 requires the avoidance of actual or potential adverse effects from the storage and use of hazardous substances on a number or sensitive locations and activities including high hazard areas. These areas may be broader than just flood risk areas, and may include areas subject to liquefaction, fault rupture or inundation exacerbated by coastal processes and climate change.</li> <li>2. Rules requiring confirmation of appropriate finished floor levels in flood overlay is supported, although it is noted that other controls in other hazard areas may be relevant.</li> <li>3. Major Hazard Facilities are listed on the WorkSafe website so it may be possible to at least indicatively map these facilities using a GIS</li> </ol>	<p>The objective is not focussed on flood events. It does however provide specific direction for these activities in relation to flooding. Major hazardous facilities are restricted discretionary, discretionary or non-complying depending on the zoning and as such consent is required for these in all hazards overlays. HS-MD1 includes consideration of all natural hazards.</p> <p>In addition, the Building Act requires buildings to be designed to respond to geotechnical issues (faults, liquefaction, etc.) and as such this also addresses potential issues from other natural hazards.</p> <p>HSNO has regulations for storage e.g. above ground stationary tanks for hazardous liquids is installed on foundations that will prevent subsidence of the ground that endangers safety but no rules around location.</p> <p>However in the Hazardous Substances Chapter, any new</p>
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			<p>layer on the ePlan. This would be beneficial for plan users where applying the proposed rules. There is now a layer on Canterbury maps that identifies these:  <a href="https://ecan.maps.arcgis.com/home/item.html?id=f50bc915413840ec9486f0cd350631a2">https://ecan.maps.arcgis.com/home/item.html?id=f50bc915413840ec9486f0cd350631a2</a></p>	<p>major hazard facility, or addition, requires resource consent.</p> <p>Information on Major Hazard Facilities is publicly available and may change. There is only one Major hazard facility in the District.</p>
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## 2.7 Iwi Authority Advice

Clause 3(1)(d) of Schedule 1 of the RMA sets out the requirements for local authorities to consult with iwi authorities during the preparation of a proposed plan. Clause 4A requires the District Council to provide a copy of a draft proposed plan to iwi authorities and have particular regard to any advice received. This section summarises the consultation feedback/advice received from the iwi authority relevant to hazardous substances and the District Council's consideration of, and response to (as required by Section 32(4A)(b) of the RMA), that feedback/advice.

No specific feedback on hazardous substances was received, although it is noted that the Ngai Tahu 2008 Policy includes Policy - Cultural Effects 3.1.6 'to generally oppose the use of any hazardous substance where it will have direct adverse effects on cultural values including mahinga kai or other valued flora or fauna, or their habitats.'

This has been considered in drafting of the standards for new, or addition to, major hazard facilities.

## 2.8 Reference to Other Relevant Evaluations

This Section 32 topic report should be read in conjunction with the following evaluations:

- a) Contaminated land section 32 evaluation for management of land contaminated by hazardous substances
- b) Energy and infrastructure section 32 evaluation for hazardous substances provisions relating to utilities
- c) Natural Hazards section 32 evaluation for activity status of hazard sensitive activities and relevant assessment matters
- d) Commercial, Mixed Use, Special Purpose – Museum and Conference Centre and Industrial Zones Chapters for management of zone interfaces and status of activities.

Note that all zone and overlay chapters will contain expectations of the sensitivity of the receiving environment and level of amenity to be maintained.

# 3. STATUTORY AND POLICY CONTEXT

## 3.1 Resource Management Act 1991

Section 5 of the RMA sets out the purpose of the RMA, which is to promote the sustainable management of natural and physical resources and enable people and communities to provide for their social, economic, and cultural well-being and for their health and safety. In achieving this purpose, authorities need to recognise and provide for matters of national importance identified in Section 6, have particular regard to other matters listed in Section 7, and take into account the principles of the Treaty of Waitangi (Te Tiriti o Waitangi) under Section 8.

### 3.1.1 Section 6

The Section 6 matters relevant to this chapter are:

- a) the preservation of the natural character of the coastal environment (including the coastal marine area), wetlands, and lakes and rivers and their margins, and the protection of them from inappropriate subdivision, use, and development;
- b) the protection of outstanding natural features and landscapes from inappropriate subdivision, use, and development;

- c) the protection of areas of significant indigenous vegetation and significant habitats of indigenous fauna;
- d) the relationship of Māori and their culture and traditions with their ancestral lands, water, sites, wāhi tapu, and other taonga;
- e) the protection of protected customary rights;
- h) the management of significant risks from natural hazards.

Sections (a) – (e) and (h) are relevant as these are potentially sensitive or vulnerable locations or considerations that may be affected by the use, storage or disposal of hazardous substances. For instance, hazardous substance storage near waterbodies that may be used for mahinga kai.

### **3.1.2 Section 7**

The Section 7 matters relevant to this chapter are:

- a) kaitiakitanga;
- aa) the ethic of stewardship
- b) the efficient use and development of natural and physical resources;
- c) the maintenance and enhancement of amenity values;
- f) maintenance and enhancement of the quality of the environment.

These sections are relevant because hazardous substances can be an important aspect of use and development of natural and physical resources, but may also affect amenity values and the quality of the environment.

### **3.1.3 Section 8**

The Section 8 requires that the principles of the Treaty of Waitangi (Te Tiriti o Waitangi) are taken into account.

This section could be relevant where culturally important locations and resources are sensitive to the development of a major hazardous activity.

**3.1.4 Sections 30 and 31** of the RMA were amended in 2017 by the Resource Legislation Amendment Act (RLAA) removing the control of hazardous substances as an explicit function of councils, making management of hazardous substances optional in District Plans. However, a broad function of integrated management is retained that allows for District Plan controls to be imposed where there are environmental effects of hazardous substances that are not adequately managed through the HSNO or HSW Acts.

**3.1.5 Section 18A** requires that processes are proportionate to the functions or powers being performed or exercised which is considered to include that unnecessary regulatory duplication is avoided and only those matters relevant to the purpose of the RMA should be addressed in policy statements and plans.

## **3.2 National Instruments**

The following national instruments are relevant to this chapter:

### **3.2.1 National Planning Standards**

The National Planning Standards were introduced in November 2019 with the purpose of improving the consistency of council plans and policy statements. The Standards require that any provisions to

manage the land use aspects of hazardous substances should be located within a chapter titled *Hazardous substances* under the *Hazards and Risks* heading of the District Plan.

### **3.2.2 National Policy Statement for Freshwater 2020**

The National Policy Statement for Freshwater is relevant to hazardous substances as escape or spillage could lead to contamination of freshwater bodies. However, most actions are for regional councils (which manage discharges) and sit outside the District Plan.

Part 3.5(1) is relevant:

(1) Adopting an integrated approach, *ki uta ki tai*, as required by Te Mana o te Wai, requires that local authorities must: (a) recognise the interconnectedness of the whole environment, from the mountains and lakes, down the rivers to hāpua (lagoons), wahapū (estuaries) and to the sea; and (b) recognise interactions between freshwater, land, water bodies, ecosystems, and receiving environments; and (c) manage freshwater, and land use and development, in catchments in an integrated and sustainable way to avoid, remedy, or mitigate adverse effects, including cumulative effects, on the health and well-being of water bodies, freshwater ecosystems, and receiving environments; and (d) encourage the co-ordination and sequencing of regional or urban growth.

An integrated approach to hazardous substance management is proposed, avoiding duplication of higher-order planning requirements. The direction of the NPSFM has been taken into account through identifying locations that may be sensitive to hazardous facilities, such as containment in areas subject to floodwater.

## **3.3 Regional policy statement and plans**

### **3.3.1 Canterbury Regional Policy Statement 2013**

Under Section 75(3) of the RMA, the District Plan must give effect to the Regional Policy Statement. The Canterbury Regional Policy Statement (RPS) predates the 2007 RLAA amendments described above and reflects the previous explicit requirement to manage hazardous substances.

Joint responsibility is identified in the Regional Policy Statement for control of the use of land for preventing the adverse effects of hazardous substance entering drainage systems, territorial authorities are responsible for preventing or mitigating adverse effects of hazardous substances on the environment, and the regional council has responsibility for effects on the quality of air and water.

Chapter 18 of the RPS contains objectives, policies and methods for managing the effects of hazardous substances. **Objectives 18.2.1 and 18.2.2** seek to avoid, remedy or mitigate adverse effects on the environment and avoid contamination of land.

The following policies are also relevant:

**Policy 18.3.1** seeks to avoid actual or potential adverse effects from the use, storage or disposal of hazardous substances within specific locations. Of the matters listed, locations within areas sensitive to the potential effects from hazardous substances, including areas prone to natural hazard, are relevant, and have been provided for in the proposed provisions for hazardous substances.

**Policy 18.3.2** seeks to avoid, remedy or mitigate adverse environmental effects, including contamination of land, air and water.

**Policy 18.3.3** promotes an integrated approach to hazardous substance management within the region.

The proposed provisions give effect to these policies (to the extent that they are consistent with the revised direction to limit controls to residual effects), by avoiding, remedying or mitigating potential effects associated with the location of activities involving hazardous facilities, and adopting an integrated management approach with Canterbury Regional Council.

### **3.3.2 The Canterbury Land and Water Plan 2017 (CLWP)**

The Canterbury Land and Water Plan includes provisions for the management of hazardous substances in relation to land and water and seeks to prevent contamination of land and water from land uses involving hazardous substances.

The following policies are relevant:

**Policy 4.24** provides for the use of registered hazardous substances for pest control where non-target organisms, cultural values and drinking water are not adversely affected.

**Policy 4.25** requires best practicable options to be used for hazardous substances not approved by HSNO and need to avoid discharge to land and water and ensure containment.

**Policy 4.26 and 4.27** seek to manage discharges from contaminated land and landfills.

**Policy 4.28 and 4.29** manage disposal of sewage sludge and on-site effluent treatment.

**Policy 4.30** manages the location of new cemeteries in relation to surface and ground water.

The following hazardous substances rules are also applicable:

**Rules 5.8 and 5.9** require that permitted activities do not contain hazardous substances.

**Rules 5.179 and 5.180** permit portable storage of hazardous substances 20m or more from a surface water body, bore or Community Drinking-Water Protection Zone, and requires consent as a restricted discretionary activity where the standards are not met.

**Rule 5.181** sets out requirements for non-portable hazardous substances storage, including a 20m setback from waterbodies and bores, and a 250m setback from an active fault where the land is over an aquifer or near a river or lake. The conditions also include reporting requirements for spillage, HSNO approval of substances, inspection and storage in a Community Drinking-water Protection Zone.

**Rule 5.182** provides for activities that don't meet 5.181 as a discretionary activity.

Other rules in the section provide for or manage the decommissioning of storage containers.

The District Plan does not seek to duplicate any of the controls managed by the Canterbury Regional Council in relation to Hazardous Substances.

### **3.3.3 The Canterbury Air Regional Plan 2015**



This plan is responsible for managing air pollution from home heating, industry and other sources. The provisions include recognition of sensitive environments and appropriate locations for activities as well as management of the cumulative aspects of discharges.

### **3.4 Iwi Management Plan (IMP)**

The Mahaanui Iwi Management Plan 2013 sits alongside other Iwi policy and plans, including the Hazardous Substances and New Organisms Policy Statement 2008. Related issues of waste disposal, water quality and contaminated land are covered in the IMP, but hazardous substance use is not similarly covered.

Broader objectives for Papatūānuku seek to protect the mauri of land and soil resources, to discontinue inappropriate land use practices that have a significant and unacceptable effect on water quality and quantity, and that Ngāi Tahu cultural heritage values, including wahi tapu and other sites of significance, are protected from damage, modification or destruction as a result of land use (Objectives 1, 5, and 8).

The direction in these objectives has been taken into account through identifying locations that may be sensitive to hazardous facilities and major hazard facilities, and through an integrated management approach that recognises regional and national control of hazardous substances, in relation to land and water.

### **3.5 Any other relevant legislation or regulations**

The following legislation/regulations are relevant to this matter:

After the current District Plan which became operative in 2005, regulations under HSNO and HSWA have come into effect, and are now considered the main legislative and regulatory mechanisms for hazardous substances. As a consequence, the District Plan Review has restricted controls to where they are necessary to control RMA related effects not covered by HSNO, HSWA or regional controls.

#### **3.5.1 Hazardous Substances and New Organisms Act 1996 (HSNO)**

The HSNO manages hazardous substances during their entire life cycle including import, use and disposal. The Environmental Protection Agency (EPA) administers the Act, but enforcement is carried out by a number of agencies.

Section 142 of HSNO Act limits plans under the RMA to only including more stringent requirements where these are necessary for the purposes of the RMA.

#### **3.5.2 Health and Safety at Work Act (Hazardous Substances) Regulations**

The management of hazardous substances in the workplace transferred from HSNO to the Health and Safety at Work Act (Hazardous Substances) Regulations in December 2017. Worksafe enforce the rules for hazardous substances in the workplace under Health and Safety at Work Act together with a range of other functions including education, guidance, certification and technical rule development.

### **3.6 Any plans of adjacent territorial authorities**

The District Council is required to have regard to the extent to which the District Plan needs to be consistent with the plans and proposed plans of adjacent territorial authorities under Section 74(2)(c) of the RMA.

A number of District Plans have been considered in preparing the Hazardous Substances Chapter. These are summarised as follows:

### **3.6.1 Hurunui District Plan**

The Hurunui District Plan seeks to manage adverse effects while avoiding duplication of controls. The policies aim to minimise risk to human health and the environment by coordinating with national and regional organisations and managing the design, establishment and operation of major hazardous facilities. The Plan also encourages the provision of information to response agencies so that preparation for emergency events can be undertaken. Rules are limited to the requirement to assess major hazardous facility as discretionary activities.

The proposed Waimakariri hazardous substances provisions have objectives and policies that similarly cover the new management regime for hazardous substances and the need to manage residual effects. The management of major facilities is also consistent with the Hurunui District Plan.

### **3.6.2 Christchurch District Plan**

The Christchurch District Plan contains a Hazardous Substances Chapter that has objectives and policies for the management of adverse environmental effects, management of residual risks, reverse sensitivity effects and effects related to natural hazards and slope stability. The Plan specifically manages the Woolston Risk Management Area.

Rules generally permit the use of hazardous substances and identify non complying activities related to the national grid and sensitive activities within the Woolston Risk Management Area.

The Waimakariri proposed provisions are generally consistent with the approach of managing residual risk, the location of sensitive activities in relation to major hazard facilities and risk in relation to natural hazard. No area similar to the Woolston Risk Management Area has been identified within the Waimakariri District.

### **3.6.3 Selwyn District Plan**

The Proposed Selwyn District Plan has recently been notified. The Proposed Plan contains a separate chapter for hazardous substances, including objectives and policies that enable use of hazardous substances, seek to assess risk for new or expanding major hazardous facilities, and manage the location of sensitive activities within risk areas identified for any major hazardous facility.

This approach is consistent with the proposed provisions for the Proposed Waimakariri District Plan.

## **4. KEY RESOURCE MANAGEMENT ISSUES**

The resource management issues set out in this section have been identified using sources of information including (but not limited to) the following:

- (a) Research and review of legislation and guideline documents;
- (b) Monitoring and review of current district plan
- (c) Issues identified in other documents and plans, including those described above.
- (d) Discussion with other agencies with functions related to hazardous substances management

The key resource management issues that need to be addressed in relation to hazardous substances are:

- (a) risk to human health, property and the environment in relation to new major hazard facilities,
- (b) effects on any sensitive areas,

- (c) potential for reverse sensitivity effects arising if activities sensitive to major hazard facilities establish in the surrounding environment and
- (d) ensuring hazardous substances are adequately managed in areas identified as prone to natural hazards.

Noting that provisions will be restricted to the extent that these matters are not otherwise regulated by HSNO, HSWA or Regional Council Plans.

## 5. OVERVIEW OF PROPOSED OBJECTIVES, POLICIES AND METHODS

### 5.1 Strategic Direction

The following objectives and policies in the Strategic Directions Chapter are, or may be, of relevance to the hazardous substances chapter provision:

#### **Objective SD – 01 Natural Environment**

Across the District:

1. there is an overall net gain in the quality and quantity of indigenous ecosystems and habitat, and indigenous biodiversity;

This may be relevant where locations are sensitive to the development of a major hazard facility.

#### **Objective SD – 03 Energy and infrastructure**

Across the District:

2. infrastructure, including strategic infrastructure, critical infrastructure and regionally significant infrastructure:
  - a. is able to operate efficiently and effectively; and
  - b. is enabled, while:
    - i. managing adverse effects on the surrounding environment, having regard to the social, cultural and economic benefit, functional need and operational need of the energy and infrastructure; and
    - ii. managing the adverse effects of other activities on infrastructure, including managing reverse sensitivity;

This is relevant as the use of hazardous substances is generally enabled in the District Plan, recognising the need for such activities and that other controls are in place that are the main method for managing risk (and adverse environmental effects).

### **Objective SD – 04 Rural Land**

Outside of identified residential development areas and the Special Purpose Zone (Kāinga Nohoanga), rural land is managed to ensure that it remains available for productive rural activities by:

1. providing for rural production activities, activities that directly support rural production activities and activities reliant on the natural resources of Rural Zones and limit other activities; and

This is relevant as the use of hazardous substances for primary production is generally enabled in the District Plan, recognising the need for such activities and that other controls are in place that are the main method for managing risk (and adverse environmental effects).

### **Objective SD – 05: Ngāi Tahu mana whenua/Te Ngāi Tūāhuriri Rūnanga**

Te Ngāi Tūāhuriri Rūnanga's role in the management of natural and physical resources is recognised, so that:

1. Ngāi Tūāhuriri's historic and contemporary connections, and cultural and spiritual values, associated with the land, water and other taonga are recognised and provided for;
2. the values of identified sites and areas of significance to Ngāi Tūāhuriri are protected;

This may be relevant where sites may be sensitive to a proposed major hazardous facility located in close proximity to sites or resources identified.

### **Objective SD – 06: Natural hazards and resilience**

The District responds to natural hazard risk, including increased risk as a result of climate change, through:

1. avoiding subdivision, use and development where the risk is unacceptable; and
2. mitigating other natural hazard risks.

This is relevant where hazardous facilities wish to establish in areas prone to natural hazards. The Proposed District Plan contains rules for hazardous substance storage and use; and any new major hazard facility, or addition to a major hazard facility in hazard areas.

## **5.2 District-wide Subject**

The Proposed District Plan contains a separate district-wide chapter for hazardous substances within the Hazards and Risks section.

## **5.3 Proposed Objectives and Policies**

The following objectives are proposed for the hazardous substances chapter:

### **Objectives**

### **HS-01 Hazardous substance use, storage and disposal**

Hazardous substance use, storage and disposal activities are located, and in the case of flood events, managed, so that:

1. risk to people, property and the environment from any major hazard facility is minimised, including avoiding unacceptable risk to sensitive activities;
2. risk to any sensitive area is minimised; and
3. risk to land and water as a result of flood events is minimised.

### **HS-02 Sensitive activities**

The location of any new sensitive activity minimises reverse sensitivity effects on any existing major hazard facility, and avoids unacceptable risk to the sensitive activity.

## **Policies**

### **HS-P1 New major hazard facility**

Minimise risk to people, property and the environment from any new major hazard facility, or any addition to a major hazard facility by:

1. identifying risk to human and ecological health and safety, and to property, through a QRA of any proposed activity, including its site characteristics and any cumulative risk from the use, storage and disposal of hazardous substances on other sites;
2. ensuring the location provides sufficient separation from any sensitive activity to minimise any risk identified in a QRA for the activity and avoids unacceptable risk to existing sensitive activities;
3. locating outside any areas of significant indigenous vegetation, significant habitats for indigenous fauna and Sites and Areas of Significance to Māori, and zones and overlays where sensitive areas or activities predominate; and
4. locating outside any high hazard area unless risk associated with the hazard can be mitigated to protect human, and environmental, health and safety.

### **HS-P2 Sensitive activity location**

Ensure any new sensitive activity is sufficiently separated from any existing major hazard facility to minimise reverse sensitivity effects for the major hazard facility, and avoid unacceptable risk to the sensitive activity.

### **HS-P3 Hazardous substance storage and flood hazards**

Within the Non-Urban Flood Assessment Overlay, Urban Flood Assessment Overlay and the Kaiapoi Fixed Minimum Finished Floor Level Overlay, any hazardous substance shall be stored to minimise the risk of spillage or leakage and contamination of land and water in a flood event.

## 5.4 Proposed Methods

The following proposed methods give effect to the objectives and policies:

- Zone, overlay and district-wide provisions in other chapters of the District Plan which manage the location of activities in relation to the characteristics, amenity and sensitivity or risk associated with the zones, overlay or district-wide matter. This includes specifying the activity status for different types of industrial activities relative to location, control of hazard sensitive activities in areas prone to natural hazards, and setting out the expectations for amenity values of the zone or overlay within the objectives and policies.
- **Hazardous Substances Chapter rules:**
  - **Permitted activity rules** provide for hazardous substance storage and use, other than for a new major hazard facility;
  - **Restricted discretionary activity rules** where a new major hazard facility or addition to a major hazard facility within a General or Heavy Industrial Zone outside of Low, Medium or High Hazard Areas, and where sites or areas of significance to Maori do not apply.
  - **Discretionary activity rules** where a new major hazard facility or additions to a major hazard facility are located within a Site or Area of Significance to Maori. Within a General Rural Zone, where the activity is not within a Site or Area of Significance to Maori, Significant Natural Area or a High Hazard Area.
  - **Non-complying activity rules** where: major hazard facilities are in High Hazard Areas, or, within the General Rural Zone, within a Site or Area of Significance to Maori or Significant Natural Area. Non complying activity rules also apply in zones other than the General Rural, General Industrial or Heavy Industrial Zones, and for any sensitive activity within the site of a major hazard facility or Risk Management Contour.
  - **Rules** that control the location of sensitive activities where they may be exposed to effects from a major hazardous facility also seek to minimise reverse sensitivity effects that may arise as a consequence of location near an established major hazardous facility and constrain the ongoing use and development of that facility.
- **Matters of Discretion** are proposed to guide the exercise of discretion in the assessment of restricted discretionary activities. These include expectations for risk assessment, particular risk related considerations, effects relating to natural hazards, proposed mitigation, reverse sensitivity, effects on sensitive activities, operational needs of major hazard facilities and any positive effects.
- Relevant **definitions** are:
  - Hazardous substance
  - Hazardous facility
  - Major hazard facility
  - Sensitive activity

## 6. SCALE AND SIGNIFICANCE EVALUATION

Section 32 (1)(c) of the RMA requires that a Section 32 report contain a level of detail that corresponds with the scale and significance of the environmental, economic, social and cultural effects that are anticipated from the implementation of the proposed objectives, policies and methods.

The level of detail undertaken for the subsequent evaluation of the proposed objectives, policies and methods has been determined by this scale and significance assessment.

In particular, Section 32 (1)(c) of the RMA requires that:

- (a) Any new proposals need to be examined for their appropriateness in achieving the purpose of the RMA;
- (b) The benefits and costs, and risks of new policies and methods on the community, the economy and the environment need to be clearly identified and assessed; and
- (c) All advice received from iwi authorities, and the response to the advice, needs to be summarised.

Further, the analysis has to be documented to assist stakeholders and decision-makers understand the rationale for the proposed objectives, policies and methods under consideration.

In making this assessment regard has been had to a range of scale and significance factors, including whether the provisions:

- (a) Are of regional or district wide significance;
- (b) Involve a matter of national importance in terms of Section 6 of the RMA;
- (c) Involve another matter under Section 7 of the RMA;
- (d) Raise any principles of the Treaty of Waitangi (Te Tiriti o Waitangi) under Section 8 of the RMA;
- (e) Address an existing or new resource management issue;
- (f) Adversely affect people's health and safety;
- (g) Adversely affect those with particular interests including Maori;
- (h) Adversely affect a large number of people;
- (i) Result in a significant change to the character and amenity of local communities;
- (j) Limit options for future generations to remedy effects; and
- (k) Whether the effects have been considered implicitly or explicitly by higher order documents;

**Policies and methods have been evaluated as a package, as together they address a particular issue and seek to meet a specific objective.**

## 6.1 Evaluation of Scale and Significance

	Low	Medium	High
Degree of change from the Operative Plan			✓
Effects on matters of national importance		✓	
Scale of effects geographically (local, district wide, regional, national)		✓	
Scale of effects on people (how many will be affected – single landowners, multiple landowners, neighbourhoods, the public generally, future generations?)	✓		
Scale of effects on those with specific interests, e.g., Mana Whenua, industry groups		✓	
Degree of policy risk – does it involve effects that have been considered implicitly or explicitly by higher order documents? Does it involve effects addressed by other standards/commonly accepted best practice? Is it consistent, inconsistent or contrary to those?	✓		
Likelihood of increased costs or restrictions on individuals, communities or businesses	✓		

## 6.2 Summary - Scale and Significance

In summary:

- (a) Overall, there is a high level of change from the Operative District Plan. This reflects the 2017 Amendments to the RMA, the requirements of the HSNO and HSW Acts and Regulations. The provisions have evolved to avoid duplication with other legislation and Regional Plan controls, and provide a clear structure that is consistent with the National Planning Standards 2019, including the introduction of a separate chapter providing specific objectives and policies for hazardous substances.
- (b) Hazardous substances can pose significant risk on people and the environment with potential to adversely affect the health of people and the community. The location of any major hazard facility in relation to sensitive areas or activities and recognising the potential effects from natural hazards, is consistent with section 6 matters to preserve and protect a range of sensitive areas and features, sites that are significant to Māori and their culture and traditions, and the management of significant risks from natural hazards. Avoiding duplication of hazardous substance management controls but ensuring residual effects are managed is consistent with section 7 matters. In regard to Section 8 matters, consultation has been undertaken with Te Ngai Tuahuriri Runanga regarding a range of District Plan matters and is ongoing.
- (c) The proposed chapter has district-wide effect and will particularly affect the industrial sector. The wider community would be affected in relation to the management of any risk to health and safety, and any constraints on sensitive activities such as new dwellings, in proximity to any new



major hazard facility. The activity standards for the zones will manage the amenity values associated with major hazard facility location. The extent to which hazardous substances are provided for in the District Plan is limited to only those residual effects identified as relevant to the District, which limits the extent to which the provisions will affect sectors and the community.

- (d) The approach is consistent with the direction provided in the Regional Policy Statement (recognising that this was developed prior to the 2017 legislative amendments for hazardous substances) and does not duplicate controls provided within Regional Plans, such as setbacks from waterbodies. The changes are generally consistent with other District Plans that have been developed after The Resource Legislation Amendment Act 2017, and in particular the Christchurch District Plan and Hurunui District Plan. The approach is also consistent with the direction to restrict District Plan management of hazardous substances to residual matters not otherwise managed by HSNO/HSWA legislation.
- (e) Cost increase would relate to any need for resource consent and provision of additional assessment information or physical separation over and above other legislative requirements, and those required for other purposes (such as to protect amenity values) required by other District Plan chapter provisions. There could also be additional cost to ensure that hazardous substances stored in areas prone to flooding are securely contained during a flood event.

Overall, the scale and significance of the proposal is assessed as **low to medium**. The level of detail and evaluation in this report corresponds with the scale and significance of the topic.

## 7. EVALUATION OF PROPOSED OBJECTIVES

Section 32(1)(a) of the RMA requires the District Council to evaluate the extent to which the objectives are the most appropriate way to achieve the purpose of the RMA. The level of detail undertaken for the evaluation of the proposed objectives has been determined by the preceding scale and significance assessment. Below is a summary of the proposed objectives that have been identified as the most appropriate to address the resource management issue(s) and achieve the purpose of the RMA, against those objectives in the operative plan.

### 7.1 Evaluation of Proposed Objectives

Existing Objectives	Appropriateness to achieve the purpose of the RMA
<p><b>Objective 12.1.1</b></p> <p>Maintain the amenity values and a quality of environment appropriate for different parts of the District which protects the health, safety and wellbeing of present and future generations, and ensure that any potential adverse environmental effects from buildings and structures, signs, glare, noise and hazardous substances are avoided or mitigated.</p>	<p>Relevance:</p> <p>The objective is consistent with Pt 2 of the RMA and includes the direction provided in the purpose of the Act.</p> <p>The objective does not meet the direction in the National Planning Standards to provide for noise, signs, and hazardous substances within separate chapters.</p>

Existing Objectives	Appropriateness to achieve the purpose of the RMA
	Reasonableness: The objective is broad and does not focus on the aims for hazardous substances beyond maintenance of amenity values and quality of the environment. A reference is made to different parts of the District which considers the variance in amenity values and quality of the environment, but does not identify any specific outcomes for particular areas, such as those that are sensitive to hazardous substances.
	Achievability: It is not specified in what circumstances avoid or mitigate would be appropriate to assist decision makers or applicants.

Proposed Objectives	Appropriateness to achieve the purpose of the RMA
<p><b>HS-01 Hazardous substance use, storage and disposal</b></p> <p>Hazardous substance use, storage and disposal activities are located, and in the case of flood events, managed, so that:</p> <ol style="list-style-type: none"> <li>1. risk to people, property and the environment from any major hazard facility is minimised, including avoiding unacceptable risk to sensitive activities;</li> <li>2. risk to any sensitive area is minimised; and</li> <li>3. risk to land and water as a result of flood events is minimised.</li> </ol> <p><b>HS-02 Sensitive activities</b></p> <p>The location of any new sensitive activity minimises reverse sensitivity effects on any existing major hazard facility, and avoids unacceptable risk to the sensitive activity.</p>	<p>Relevance:</p> <p>The purpose of the RMA is to promote the sustainable management of natural and physical resources by managing the use, development and protection of physical resources in a way which enables people and communities to provide for their social, economic and cultural well-being. Under Section 7(b), (c) and (f) of the RMA, this includes the maintenance and enhancement of amenity values, and the quality of the environment.</p> <p>The identification of matters not specifically controlled by either legislation or regional plans that will be controlled through the District Plan will achieve integrated resource management consistent with the purpose of the Act.</p> <p>The objectives are consistent with the policy direction of the RPS relating to the use, storage and disposal of hazardous substances and will form part of an integrated management approach within the region, recognising the legislative reform since the Regional Policy Statement became operative.</p> <p>Objective HS-01 focuses on the location of activities involving hazardous substances, risk from major hazard facilities, risk to sensitive activities and risk to land and water that relates to the natural hazard of flooding. The objective seeks to minimise each risk identified.</p>

Proposed Objectives	Appropriateness to achieve the purpose of the RMA
	<p>HS-02 recognises the potential for reverse sensitivity effects to emerge where sensitive activities locate near an existing major hazard facility, and that the risks to the sensitive activity could be unacceptable in some instances.</p> <p>Minimising risks associated with flood events is consistent with the requirements of section 6 (h) which requires the 'management of significant risks from natural hazards'.</p>
	<p>Reasonableness:</p> <p>Management of effects relating to the location of activities that may be incompatible through location, and effects relating to natural hazards is consistent with the purpose of the Act, and the scope anticipated by the RLAA Amendments.</p> <p>The proposed objectives avoid duplication of other legislative or higher order planning documents, but provide guidance for resource management issues that are relevant for district plans, including the location of activities and reverse sensitivity effects.</p>
	<p>Achievability:</p> <p>The provisions are generally enabling and achievable. Where any risk assessment is required for a major development proposal, this will need suitably qualified and experienced technical advice for report preparation, assessment and peer review.</p>

Evaluation of Alternative Options	Appropriateness to achieve the purpose of the RMA
<p>A. Do not provide for hazardous substances within the District Plan</p>	<p>Relevance:</p> <p>This option would recognise that HSNO/HSW legislation is the primary means for regulating hazardous substances from procurement to disposal. It would also recognise the controls on storage and containment under the Canterbury Regional Land and Water Plan and controls for discharges to air under the Canterbury Air Regional Plan.</p>

	Reasonableness: The option fails to acknowledge potentially significant effects such as containment of hazardous substances in relation to flood hazard, and the location of major hazard facility in relation to sensitive activities and reverse sensitivity. Failure to provide controls to address these effects would not meet the purpose of the Act.
	Achievability: The option would also fail to provide direction to applicants and decision makers on matters that should be addressed in preparing applications and making decisions for activities involving hazardous substances within the District.

## 7.2 Summary - Evaluation of Proposed Objectives

In summary, the proposed objectives achieve the purpose of the Act by providing for control of those effects that are not already controlled by legislation or the Regional Council, and thereby enabling people and the community to provide for their social, economic and cultural well-being, including health and safety, while avoiding, remedying or mitigating adverse effect on the environment. The objectives clearly identify the aspects of residual risk that it is appropriate to manage within the District and avoids unnecessary duplication of requirements in the HSNO and HSW legislation. The objectives give effect to the RPS policies for hazardous substances and manage risk related to location of major hazard facilities, sensitive activities (and reverse sensitivity) and hazardous substance facilities within areas prone to flooding.

## 8. EVALUATION OF PROPOSED POLICIES AND METHODS

Section 32 (1)(b) of the RMA requires an evaluation of whether the proposed policies and methods are the most appropriate way to achieve the proposed objectives by identifying other reasonably practicable options, assessing the efficiency and effectiveness of the proposed policies and methods in achieving the objectives, and summarising the reasons for deciding on the proposed policies and methods.

**The level of detail undertaken for the evaluation of the proposed policies and methods has been determined by the preceding scale and significance assessment.**

The assessment must identify and assess the benefits and costs of environmental, economic, social and cultural effects that are anticipated from the implementation of the proposed policies and methods, including opportunities for economic growth and employment.

The assessment must, if practicable, quantify the benefits and costs and assess the risk of acting or not acting if there is uncertain or insufficient information available about the subject matter.

**Policies and methods have been evaluated as a package, as together they address a particular issue and seek to meet a specific objective.**

## 8.1 Evaluation of Proposed Policies and Methods

An evaluation of the proposed policies and methods is summarised in the following table:

Options to achieve the District Plan objectives relating to hazardous substances	Benefits environmental, economic, social and cultural effects anticipated,	Costs environmental, economic, social and cultural effects anticipated,	Efficiency and Effectiveness	Risk of acting / not acting if there is uncertain or insufficient information about the subject matter of the provisions
<b>Option A: Proposed Approach</b>				
<p>(a) A specific district-wide chapter that provides objectives, policies and rules</p> <p>(b) Policy framework to manage residual effects related to location of major hazard facilities in relation to sensitive activities and sensitive areas, and locations prone to natural hazards. The provisions avoid duplication with other statutory or regional government processes.</p> <p>(c) The chapter does not duplicate provisions in other zones which manage the activity status of activities likely to use hazardous</p>	<p><b>Environmental:</b></p> <p>(a) Complements Regional Plan management of hazardous substances discharges to water, land and air.</p> <p>(b) Requires secure containment of hazardous substances in the event of a flood within areas identified as prone to flooding.</p> <p>(c) Requires assessment of major hazard facilities to ensure risk is adequately identified and that the location is sufficiently separated from any activities or areas that may be sensitive to that risk, including risk to human health and safety.</p>	<p><b>Environmental:</b></p> <p>Cost for environmental monitoring.</p> <p><b>Economic:</b></p> <p>a) Costs associated with risk assessment, resource consent processes and improved containment systems where flooding is an identified risk. However, it is recognised that this assessment should already have been undertaken as part of good practice by developers in the consideration of site suitability.</p> <p>(b) Time costs for development associated with resource consent process.</p>	<p>(a) Efficient to have an integrated approach to the management of hazardous substances and to avoid duplication of regulation carried out by other agencies.</p> <p>(b) A clearer approach that contains specific objectives and policies for hazardous substances gives clearer direction to the community and for decision making.</p> <p>(c) The separate chapter for hazardous substances is more user-friendly for plan users, and clarification of activity status.</p>	<p>(a) There is sufficient information and direction on the subject to act.</p> <p>(b) The risk of acting largely relates to any overlaps with the control through other regulatory instruments.</p> <p>(c) The risk of not acting is that the identified residual effects could increase the risk to people, in particular to their health, safety, and to the quality of areas that have natural or cultural values that may be reduced or threatened.</p> <p>(d) In particular, not acting could lead to locations of sensitive activity near an existing major hazard facility</p>

Options to achieve the District Plan objectives relating to hazardous substances	Benefits environmental, economic, social and cultural effects anticipated,	Costs environmental, economic, social and cultural effects anticipated,	Efficiency and Effectiveness	Risk of acting / not acting if there is uncertain or insufficient information about the subject matter of the provisions
<p>substances (such as industrial activities) in relation to the expected quality of the environment within the zone.</p> <p>(d) Permitted activity status is generally provided for hazardous substances storage and use in the District, reflecting that the District Plan is not the principal method for regulating hazardous substances.</p> <p>(e) Major hazard facilities are restricted discretionary activity in General and Heavy Industrial Zones, and discretionary activity in the General Rural Zone.</p> <p>(f) Major hazard facility are non-complying activities in all other zones.</p>	<p>(d) The use of a Quantitative Risk Assessment for new major hazard facility has the advantage over a set buffer distance approach, as it can define the area of risk on or off site, which allows for more efficient management of the land resource and prevents either over-restriction or insufficient management of the risk associated with the facility.</p> <p><b>Economic:</b></p> <p>(e) Protects existing major hazard facility from constraint due to reverse sensitivity effects by controlling the location of new sensitive activities nearby.</p> <p><b>Social and Cultural:</b></p> <p>The proposed provisions seek to manage risk to sensitive activities and areas, which can protect and support social and cultural resources, such as schools and marae.</p>	<p>(c) Rules may potentially limit the major hazard facility development and associated economic and employment activity.</p> <p>(d) Potential for restriction of sensitive activity development, for example, new housing in the vicinity of an existing major hazard facility, and associated loss of economic and employment opportunities.</p> <p>(e) Cost to community through Council expenditure relating to consultation, processing and ongoing administration or monitoring in relation to any major hazard facility (over and above costs that are met by the applicant).</p> <p>(f) Cost associated with education and guidance to assist with understanding of new provisions.</p>	<p>(d) The rules are effective as they are consistent with RPS policy and signal when resource consent would be required and the matters that need to be addressed as part of a risk assessment for a major hazard facility proposal.</p> <p>(e) The rules provide greater certainty for the community on the possible location of any new major hazard facility, and greater certainty for existing major hazard facility that reverse sensitivity effects will be constrained.</p> <p>(f) Provisions are clearer and presented in a way that is easier to use.</p> <p>(g) Rules for activities clearly identify to all plan-users the matters that are to be controlled within the District Plan, when resource consent assessment will be required, and for restricted discretionary activities, the matters to which discretion will be restricted.</p>	<p>(e) A potential risk is that plan users will need to adjust to the new format and content, and guidance may be required.</p>

Options to achieve the District Plan objectives relating to hazardous substances	Benefits environmental, economic, social and cultural effects anticipated,	Costs environmental, economic, social and cultural effects anticipated,	Efficiency and Effectiveness	Risk of acting / not acting if there is uncertain or insufficient information about the subject matter of the provisions
		<p><b>Social:</b> No social costs identified.</p> <p><b>Cultural:</b> No cultural costs identified.</p>	<p>Locations that are not considered appropriate for major hazard facility development are clearly identified through non complying activity status.</p> <p>(f) Integrates with land use management provisions in other chapters of the District Plan.</p> <p>(g) Supports integrated management of hazardous substances within the District Plan, Regional Plans and other legislative controls.</p>	
<b>Opportunities for economic growth and employment</b>				
<p>Opportunities for economic growth and employment would be related to the range of activities enabled by the proposed provisions acknowledging that hazardous substances are mainly controlled through other methods outside of the District Plan. Major hazardous facilities are provided for through a resource consent process which could result in employment and economic growth opportunities.</p>				
<p><b>Quantification</b> Section 32(2)(b) requires that if practicable the benefits and costs of a proposal are quantified.</p> <p>Given the assessment of the scale and significance of the proposed changes above it is considered that quantifying costs and benefits would add significant time and cost to the s32 evaluation processes. The evaluation in this report identifies where there may be additional cost(s), however the exact quantification of the benefits and costs discussed was not considered necessary, beneficial or practicable.</p>				

Options to achieve the District Plan objectives relating to hazardous substances	Benefits environmental, economic, social and cultural effects anticipated,	Costs environmental, economic, social and cultural effects anticipated,	Efficiency and Effectiveness	Risk of acting / not acting if there is uncertain or insufficient information about the subject matter of the provisions
<b>Options less appropriate to achieve the objective</b>				
<b>Option B: Status Quo (Effects-based approach)</b>				
This option is dismissed as it is not reasonable due to amendments to legislation and review of the role of district plans and hazardous substance management.				
<p>(a) This option would not include a chapter on hazardous substances and would rely on HSNO/HSW legislation together with Regional Plan control, and management of amenity in other District Plan chapters to control hazardous substances activities and risk within the District.</p>	<p><b>Environmental:</b> None identified, as controls are covered by other non- district plan methods.</p> <p><b>Economic:</b></p> <p>(a) Low development and implementation and enforcement costs.</p> <p>(b) Enabling for the development of activities in a variety of locations.</p> <p>(c) Greater certainty for hazard facilities that they will be able to operate within the District (subject to external regulation and restrictions).</p> <p><b>Social and Cultural:</b></p> <p>No specific benefits identified.</p>	<p><b>Environmental:</b></p> <p>(a) Potential cost related to failure of District Plan to cover residual effects resulting in environmental contamination, effects on health or safety, property damage, constraint of operations due to reverse sensitivity or reduction in cultural or natural values.</p> <p><b>Economic:</b></p> <p>(b) Reduced certainty for major hazard facilities for continued operation without constraint from reverse sensitivity effects.</p> <p><b>Social:</b></p> <p>As identified in (a)</p>	<p>When compared to the proposed provisions:</p> <p>(a) Lower level of efficiency and effectiveness in relation to the control of residual effects.</p> <p>(b) Less efficient for existing major hazard facility as operations may be constrained.</p> <p>(c) Less effective in regard to its obligations under Part 2 of the RMA.</p> <p>(d) Less effective in ensuring conflicting activities are not located in close proximity.</p>	<p>(a) There is sufficient information to identify risk of acting on this option.</p> <p>The risk of acting on the non-regulatory approach is that Council may not give effect to its RMA duties in relation to residual effects of hazardous substances. Although simpler, risks to human health, property and the environment would be greater than proposed Option A, and the risk of reverse sensitivity constraining existing activities is also greater.</p>



Options to achieve the District Plan objectives relating to hazardous substances	Benefits environmental, economic, social and cultural effects anticipated,	Costs environmental, economic, social and cultural effects anticipated,	Efficiency and Effectiveness	Risk of acting / not acting if there is uncertain or insufficient information about the subject matter of the provisions
		<b>Cultural:</b> (c) Potential cost associated with reduction in natural and cultural values of sensitive areas, and any remediation that may be required.		
<b>Opportunities for economic growth and employment</b>				
<p>As for the proposed provisions, but more permissive approach for major hazardous facilities may offer some greater employment and economic opportunities within the District.</p>				
<p><b>Quantification</b>            Section 32(2)(b) requires that if practicable the benefits and costs of a proposal are quantified.            Given the assessment of the scale and significance of the proposed changes above it is considered that quantifying costs and benefits would add significant time and cost to the s32 evaluation processes. The evaluation in this report identifies where there may be additional cost(s), however the exact quantification of the benefits and costs discussed was not considered necessary, beneficial or practicable.</p>				

## 8.2 Summary - Evaluation of Proposed Policies and Methods

The proposed policies and methods are the most efficient and effective and the most appropriate option to achieve the objectives for managing the residual effects of hazardous substances use, storage and disposal in the District.

The status quo approach in the Operative District Plan is effects-based and is not consistent with current best practice which requires that hazardous substances are principally managed by specific legislation and regulation (HSNO/HSW) and that District Plan provisions are restricted to any residual RMA effects. In addition, the format and content of the plan are now required to be consistent with the National Planning Standards 2019, which generally anticipates an activities-based approach.

The Permissive Approach, although simpler, has a greater risk of adverse environmental effects as identified 'gaps' in regulation would not be addressed.

The proposed approach aligns with the National Planning Standards and will achieve Part 2 of the RMA.

## 9. SUMMARY

This evaluation has been undertaken in accordance with Section 32 of the RMA. The evaluation has identified the need, benefits and costs and the appropriateness of the proposed approach having regard to its effectiveness and efficiency relative to other means in achieving the purpose of the RMA. The evaluation demonstrates that the proposed approach is the most appropriate option as:

- (a) Provision is made for Hazardous Substances in a separate district-wide chapter, which is consistent with the National Planning Standards and other District Plans;
- (b) The updated provisions are consistent with best practice in new District Plans and are consistent with the management of hazardous substances in neighbouring districts.
- (c) The Hazardous Substances Chapter provides policy direction that is specific to the integrated management approach for hazardous substances, and provides clearer direction for plan users.
- (d) The proposed provisions do not regulate most use of hazardous substances, but introduce new provisions to manage the location of major hazard facilities in relation to risk and sensitive activities, and to ensure hazardous substances are contained where there is identified risk from flooding.

Overall, it is considered that the proposed provisions are the most appropriate given that the benefits outweigh the costs, and there are considerable efficiencies to be gained from adopting the proposed provisions. The risks of acting are also clearly identifiable and limited in their extent. The risk of not acting would continue with an out-dated approach that no longer meets the intent of legislation and has a potential to increase risk to people and the environment from the use, storage and disposal of hazardous substances.