

Hazardous substances – S42a Officer’s hearing speaking notes

25 July 2023

I am Jessica Manhire, Policy Planner in the Development Planning Unit at the Waimakariri District Council. I prepared the s42A report on Hazardous Substances and Contaminated Land and can confirm that I have read all the submissions, further submissions, submitter evidence and relevant technical documents and higher order policies.

First, by way of introduction to the hazardous substances topic, I will provide an overview of the s32 report, submissions received, the s42A report and my recommendations in that report. Then I will go through my preliminary view of the submitter evidence, the questions from the hearing panel and my preliminary written responses. After which, I will be happy to take questions on the S42A report.

I anticipate that there may be questions of clarification on my answers to your pre-circulated questions, so I will take a pause between my responses for this purpose.

I will now introduce the Hazardous Substances Chapter.

Variation 1

I would like to note that the Hazardous Substances Chapter is not subject to provisions introduced by *Variation 1: Housing Intensification* and there are no qualifying matters that apply to the chapter provisions.

S32 Report

Since the District Plan for the Waimakariri District became operative in 2005, amendment to legislation removed the requirement for district plans to control hazardous substances¹, and the expectation is that HSNO and Worksafe controls will generally be adequate to avoid, remedy or mitigate adverse effects, including potential effects, from hazardous substances.

The District Plan, however, may provide for residual matters (not specifically controlled by other legislation), including storage of hazardous substances in areas prone to natural

¹ The Resource Legislation Amendment Act 2017 (RLAA)

hazards, any cumulative effects, reverse sensitivity effects, and effects relating to the location of activities, including major hazard activities.

The notified provisions manage the location of major hazard facilities in relation to risk and sensitive activities, and ensure hazardous substances are contained where there is identified risk from flooding.

Submissions

The Hazardous Substances Chapter received eight submissions, 48 submission points and one further submission.

More than 60% of the submissions on hazardous substances were in support, and the rest sought amendments.

S42A Report – Key issues

The s42A report demonstrates my consideration of the submissions received.

As identified in section 1.4 of my s42A report, the key issues raised in submissions were:

- The contribution hazardous substances make to economic and social wellbeing is not adequately recognised in the objectives.
- There may be other natural hazards relevant to risk from hazardous substances, in addition to flood hazards.

S42A Report – recommended amendments

Upon weighing up all submissions, my recommended changes are contained within Appendix A of my S42A report. Generally, I have recommended to retain the provisions as proposed. However, I have recommended some minor wording changes to the provisions to address matters raised in submissions.

Submitter evidence

I have read all the submitter evidence received on Hazardous Substances.

ECan and the Fuel Companies have provided evidence on this topic.

ECan has requested Policy HS-P3 and Rule HS-R1 be amended to refer to the High Hazard Areas.

I agree HS-P3 should refer to the High Hazard Area (rather than the High Coastal Flood Hazard Area). I have addressed this in my response to the panel's questions.

In regards to rule HS-R1, I have checked with the Natural Hazards s42A author, Mr Willis, and the Coastal Flood Assessment Overlay is to be retained. High Hazard Area is not an overlay, but is a defined term, so cannot be included in the left column of rule HS-R1, as it would not link to the planning maps in e-plan and would, therefore, not be functional in an e-plan context. Therefore, I have not changed my recommendation on HS-R1.

The Fuel Companies seek HS-R1 to only apply to above ground storage of hazardous substances, noting that underground facilities, like petroleum storage at service stations are resilient to inundation. At this point in time, I retain my position outlined in my s42A but if my view changes, during the hearing, then I will address that in my right of reply.

Hearing panel questions

In preparing my reply to the questions from the Hearing Panel, my opinion has also changed with respect to my recommendation on HS-P3. However, I will address this as I go through my answers. I will revisit these recommendations again in my right of reply should my opinion be moved through the course of the hearing.

HS – Hazardous Substances

Paragraph or Plan reference	Question
Para 65	<p>Should the reference to ‘people’ also be deleted (via cl 16) given they are also part of the environment?</p> <p>My answer: ‘People’ could be deleted because the definition of ‘environment’ contained in the RMA includes people. However, people is helpful direction in HS-O1 and HS-P1 because hazardous substances can pose potential risks for the health and safety of people so my preference is to retain ‘people’.</p>
Para 69	<p>Please explain/describe the ‘threshold’ referred to in the regulations</p> <p>My answer: The thresholds are contained in the Health and Safety at Work (Major Hazard Facilities) Regulations 2016 Schedule 2 and it depends on the substance. These are, for example, 2500 tonnes of gasoline, or 50 tonnes of LPG to meet the threshold to be classified as a major hazard facility.</p>
Para 70	<p>Please explain/describe the ‘residual risk’ referred to.</p> <p>My answer: Residual risk is the remaining risk that is not specifically controlled by other legislation such as the Hazardous Substances and New Organisms Act 1996, and the Health and Safety at Work Act 2015. This includes matters such as the storage of hazardous substances in areas prone to natural hazards, any cumulative effects, reverse sensitivity effects, and effects relating to the location of activities.</p>
Section 3.3	<p>Please reconsider whether the amendment recommended to HS-P3 is consistent with the recommendations in the Natural Hazards s42A report.</p> <p><i>My answer:</i> I acknowledge that the Natural Hazards s42A report author made a late change, based on ECan advice, to recommend deletion of the High Coastal Flood Hazard Area definition and it be replaced by the term High Hazard Area, as outlined in ECan’s evidence². Therefore, I recommend the High Coastal Flood Hazard Area be replaced with High Hazard Area. The Coastal Flood Assessment Overlay could also be included in the policy. An alternative option, which I prefer, is to refer broadly to the flood assessment overlays, to future proof the policy if there is any</p>

² Statement of Evidence of Joanne Mitten on behalf of The Canterbury Regional Council

Paragraph or Plan reference	Question
	<p>change to the naming of the natural hazard definitions or overlays. I have included my drafting suggestion in my response for the panel to consider:</p> <p><i>“Within the Non-Urban Flood Assessment Overlay, Urban Flood Assessment Overlay and the Kaiapoi Fixed Minimum Finished Floor Level Overlay any flood hazard overlays, any hazardous substance shall be stored to minimise the risk of spillage or leakage and contamination of land and water in a flood event.”</i></p>

Thank you, that concludes the preliminary written response to questions. I have taken notes of the matters that I said I would address in my right of reply.

I am happy to now take questions on my s42A report.