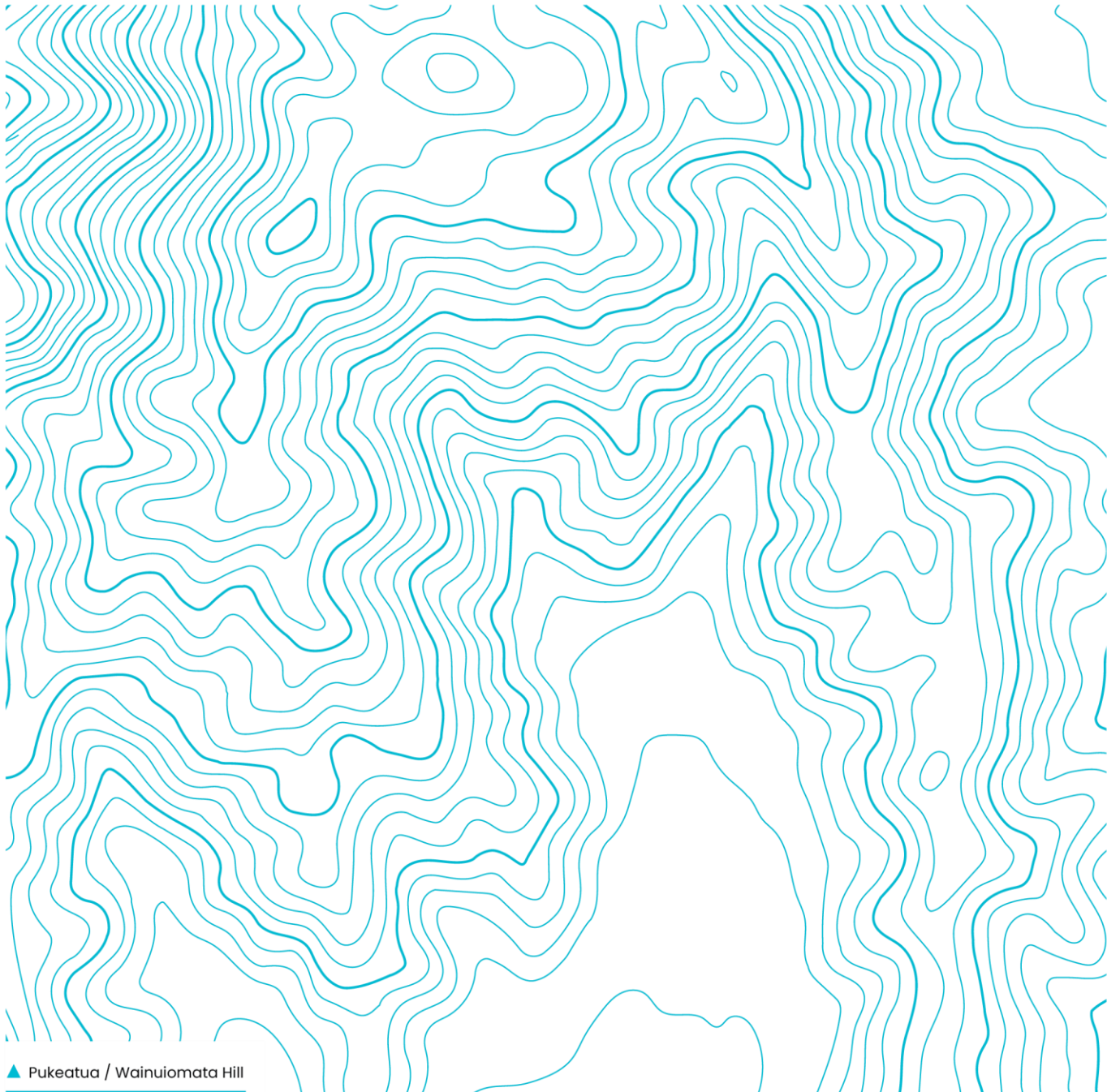


# Section 32 Evaluation HAZARDOUS SUBSTANCES



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## 2 Overview and Purpose

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- (1) Hutt City Council is reviewing the Operative City of Lower Hutt District Plan (operative District Plan). This is a full review of the District Plan, including the approach to hazardous substances.
- (2) This report is a record of the review regarding hazardous substances and includes an evaluation of objectives and provisions for a proposed District Plan to address hazardous substances, in accordance with the requirements of s32 of the Resource Management Act 1991 (RMA).
- (3) This report is one of a package of reports for the Proposed City of Lower Hutt District Plan (proposed District Plan) and should be read alongside the plan-wide report for matters common to all Plan topics.
- (4) Hazardous substances, which include a range of toxic substances such as chemicals, medical wastes, petroleum products, and gases, are used throughout Lower Hutt for many purposes. The manufacture, use, storage, and disposal of hazardous substances is an integral and essential part of many commercial, industrial, and rural activities. Of particular significance in Lower Hutt are the bulk fuel storage facilities and industrial activities in the Seaview area. However, if not appropriately managed, hazardous substances can present potential risks to people and the environment. Risks are categorised by the likelihood of occurrence of an adverse effect from a hazard, and the resulting consequences adversely affecting people and the environment. These hazards include explosiveness, flammability, corrosiveness, toxicity and ecotoxicity.
- (5) The use of hazardous substances in New Zealand is primarily managed by the Hazardous Substances and New Organisms Act 1996 (HSNO Act) the Health and Safety at Work Act 2015 (HSW Act). To implement these Acts, various regulations have been developed, such as the Health and Safety at Work (Major Hazard Facilities) Regulations 2016. This legislation and regulations are administered by the Environmental Protection Authority and Worksafe respectively. The Regional Council manages discharges to land, air and water relating to hazardous substances. However, HSNO Act, HSW Act and other regulations do not fully address potential risks to people, property and the environment from hazardous substances. Areas where RMA controls can manage the residual risk not addressed by existing legislation and regulations are:

- a. Incompatibility and risks between hazardous facilities and sensitive land uses.
  - b. Risks from hazardous facilities to sensitive natural environments/ecosystems.
  - c. Reverse sensitivity issues in relation to risk from hazardous facilities.
  - d. Cumulative risks from several hazardous facilities near each other.
  - e. Hazardous facilities in areas subject to significant risk from natural hazards.
- (6) When the operative District Plan was drafted there was an explicit requirement in the RMA for councils to control the adverse effects of the storage, use, transportation and disposal of hazardous substances. However, the Resource Legislation Amendment Act 2017 removed this explicit function to ensure RMA controls do not duplicate controls in the HSNO and HSW Acts (which were developed after the RMA was first enacted). Councils do retain a broad power under the RMA to manage hazardous substances through their plans and policy statements to achieve the purpose of the RMA and to carry out the function of integrated management of natural and physical resources in their district.
- (7) The operative District Plan contains provisions that overlap with controls under the HSNO and HSW Acts and their associated regulations. The review of the hazardous substances provisions in the operative District Plan concluded that this overlap is no longer appropriate and results in unnecessary duplication and conflict in regulations. The review has considered alternative approaches for managing the risk of adverse effects from land use activities that use, manufacture, store or dispose of hazardous substances after compliance with other legislation and regulations.
- (8) The purpose of the proposed hazardous substances provisions is to ensure that activities that use, store and dispose of hazardous substances are located, designed, constructed and operated so that the risk to people, property, and environment is managed. In addition, the provisions seek to ensure established activities that use, store, and dispose of hazardous substances are not compromised by new activities sensitive to hazardous substance risks locating nearby.
- (9) The key aspects of the Hazardous Substances Chapter and related provisions are:

- Resource consent requirement for new and expanded significant hazardous facilities as a restricted discretionary activity, discretionary or non-complying activity depending on the zone.
- Introduction of a new Risk Management Overlay (mapped area) applying to the bulk fuel storage facilities (significant hazardous facilities) in Seaview and a resource consent requirement for new activities sensitive to hazardous substance risks located within this Overlay as a non-complying activity.
- Resource consent requirement for new and expanded significant hazardous facilities within overlays such as natural hazard areas.

(10) The proposed hazardous substances provisions will reduce the current complexities of the operative District Plan, are consistent with other recently reviewed District Plans and will minimise overlap with other legislation and regulations.

# 3 Statutory and Policy Context

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(11) The following sections discuss the national, regional and local policy framework that are relevant to the statutory and policy context for hazardous substances in the Proposed District Plan.

## 3.1 Resource Management Act 1991

### 3.1.1 Section 5 – Purpose and Principles

(12) The purpose of the RMA is set out in Section 5. The purpose is to promote the sustainable management of natural and physical resources. This section is set out in more detail in the General section 32 evaluation report.

### 3.1.2 Section 6 – Matters of National Importance

(13) Section 6 of the RMA sets out matters of national importance that all persons exercising functions and powers under the Act shall *recognise and provide for* in achieving the purpose of the RMA. The relevant s6 matters for hazardous substances are:

Section	Relevant Matter
Section 6(a)	<p><i>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.</i></p> <p>Natural character in the coastal environment, wetlands, and lakes and rivers and their margins are sensitive environments that can be adversely affected by inappropriate use, storage and disposal of hazardous substances.</p>
Section 6(b)	<p><i>the protection of outstanding natural features and landscapes from inappropriate subdivision, use, and development.</i></p>

	Outstanding natural features and landscapes are sensitive environments that can be adversely affected by inappropriate use, storage and disposal of hazardous substances.
Section 6(c)	<p><i>the protection of areas of significant indigenous vegetation and significant habitats of indigenous fauna.</i></p> <p>Areas of significant indigenous vegetation and significant habitats of indigenous fauna are sensitive environments that can be adversely affected by the inappropriate use, storage and disposal of hazardous substances.</p>
Section 6(e)	<p><i>the relationship of Māori and their culture and traditions with their ancestral lands, water, sites, waahi tapu, and other taonga.</i></p> <p>The relationship of Māori and their culture and traditions with their ancestral lands, water, sites, waahi tapu and other taonga have potential to be sensitive to the adversely effects from inappropriate use, storage and disposal of hazardous substances.</p>
Section 6(h)	<p>the management of significant risks from natural hazards.</p> <p>The use, storage and disposal of hazardous substances poses a greater risk to people, property, and the environment in areas subject to significant risks from natural hazards.</p>

### 3.1.3 Section 7 – Other Matters

- (14) Section 7 of the RMA sets out other matters that all persons exercising functions and powers under it shall *have particular regard to* in achieving the purpose of the RMA. The relevant s7 matters for hazardous substances are:

Section	Relevant Matter
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<p>Section 7(b)</p>	<p><i>the efficient use and development of natural and physical resources.</i></p> <p>The use, storage, and disposal of hazardous substances supports the efficient use and development of natural and physical resources.</p> <p>In relation to the Risk Management Overlay, the bulk fuel storage and handling facilities at Seaview has been in existence for many years, and supplies fuels to the Lower North Island. These facilities are important to the economic and social functioning of the region. Introducing new management practices to protect both the function of the facilities and the health of people living and working in proximity to the facilities is an efficient use of physical resources.</p>
<p>Section 7(d)</p>	<p><i>intrinsic values of ecosystems.</i></p> <p>The use, storage, and disposal of hazardous substances has the potential to adversely affect ecosystems if not properly managed.</p>
<p>Section 7(f)</p>	<p><i>maintenance and enhancement of the quality of the environment.</i></p> <p>The use, storage, and disposal of hazardous substances has the potential to adversely affect the quality of the environment if not properly managed.</p>

### **3.1.4 Section 8 – Treaty of Waitangi**

- (15) Section 8 of the RMA requires Council to *take into account* the principles of the Treaty of Waitangi when exercising functions and powers under the Act. Tangata whenua, through iwi authorities, have been consulted as part of the District Plan review and Proposed District Plan preparation process. This feedback has informed the overall section 32 evaluation, and the obligation to make informed decisions based on that consultation is noted.

## **3.2 National Policy Statements**

- (16) There are no National Policy Statements of direct relevance to this topic.

## **3.3 National Environmental Standards**

- (17) The following national environmental standard is particularly relevant for hazardous substances:

- National Environmental Standards for Assessing and Managing Contaminants in Soil to Protect Human Health (2011) (NESCS)

- (18) The NESCS provides a nationally consistent set of planning controls and soil contaminant limits, providing a framework to identify and manage the use of contaminated soils. The NESCS does not control the use of hazardous substances, but manages the use of soils that have been, or may have been, contaminated by hazardous substances.

## **3.4 National Planning Standards**

- (19) Section 75(3)(ba) of the RMA requires district plans to give effect to national planning standards.

- (20) The first set of national planning standards was published in April 2019, with additional changes being incorporated into the standards since then.

- (21) The national planning standards require that where provisions relating to hazardous substances are addressed, they must be located in a chapter titled 'Hazardous substances' under the 'Hazards and risks' heading. If the following matters are addressed, they must be located in a Hazardous substances chapter:

- any provision required to manage the land use aspects of hazardous substances;
- provisions relating to the use, storage and disposal of hazardous substances on land that presents a specific risk to human or ecological health, safety and property;
- provisions required to manage land use in close proximity to major hazard facilities to manage risk and reverse sensitivity issues.

(22) The National Planning Standards provides a definition for 'hazardous substance' (which is the same as that provided in section 2 of the RMA).

### 3.5 Regional Policy Statement for the Wellington Region

(23) The Regional Policy Statement for the Wellington Region ('the RPS') identifies the significant resource management issues for the region and outlines the policies and methods required to achieve the integrated sustainable management of the region's natural and physical resources.

(24) The relevant objectives and policies of the RPS for hazardous substances are discussed below:

Reference	Relevant Matter
Policy 63	<p><i>Allocation of responsibilities for land use controls for hazardous substances.</i></p> <p>This policy identifies that responsibility for development of objectives, policies, rules and other methods for land use controls for hazardous substances lies with GWRC for land in the coastal marine area and the beds of lakes and rivers, and with district and city councils for other land.</p>

## 3.6 Operative Regional Plan

- (25) The relevant objectives, policies and rules of operative regional plan (natural resources plan) are discussed below:

Reference	Relevant Matter
Objective O41	<i>The environment is protected from the adverse effects of discharges of hazardous substances and the creation of contaminated land is avoided.</i>
Policy P100 Discharge of Hazardous Substances	<i>The adverse effects of the discharge of hazardous substances (excluding a discharge subject to Policy P89) to land, fresh water, including groundwater, coastal water or air shall be avoided, or mitigated or remedied where avoidance is not practicable.</i>
Rules R48, R51, R77, R78	Rules relating to stormwater discharges, or discharges from the manufacture and storage of silage or compost, storage of solid animal waste, or farm refuse dumps, require that discharges do not contain hazardous substances as a permitted activity. In summary, the NRP provides a regulatory approach for managing the discharge of hazardous substances to water, land and air.

## 3.7 Proposed Regional Plan

- (26) In October 2023, Greater Wellington Regional Council notified Proposed Change 1 to the Natural Resources Plan for the Wellington Region. This plan change applies to Lower Hutt and introduces and amends requirements for activities involving the storage, use or generation of hazardous substances on-site that are exposed to rain and could become entrained in stormwater. These activities are defined as 'high risk industrial or trade premises'. The relevant policies and rules of Proposed Change 1 are listed in the table below.

(27) At the time of writing this report, submissions on Proposed Change 1 had closed and hearings were to be held. Therefore, the below provisions are subject to change.

Reference	Relevant Matter
<p>Policy WH.P11 Discharge of contaminants in stormwater from high risk industrial or trade premises</p>	<p><i>The discharge of stormwater to water, including discharges via the stormwater network, from a high risk industrial or trade premise shall be managed by:</i></p> <p><i>(a) having procedures and equipment in place to contain any spillage of hazardous substances for storage or removal, and</i></p> <p><i>(b) avoiding contaminants or hazardous substances being entrained in stormwater and discharged to a surface water body or coastal water, including via the stormwater network, or where avoidance is not practicable, implementing good management practice to avoid or minimise adverse effects on the environment, including reducing contaminant volumes and concentrations as far as practicable, and applying measures, including secondary containment, treatment, management procedures, and monitoring, and</i></p> <p><i>(c) installing an interceptor where there is a risk of petroleum hydrocarbons entering into the stormwater network, a surface water body or coastal water, and</i></p> <p><i>(d) avoiding or mitigating adverse effects of stormwater discharges on groundwater quality.</i></p>
<p>Rules WH-R2, WH-R3, WH-R4, WH-R5, WH-R6, WH-</p>	<p>Rules relating to managing stormwater discharges from high risk industrial or trade premises.</p>

R7, WH-R9, WH-R12	
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### 3.8 Iwi Management Plans

- (28) Section 74(2A) of the RMA requires territorial authorities, when preparing or changing a district plan, to take into account any relevant planning document recognised by an iwi authority and lodged with the territorial authority, to the extent that its content has a bearing on the resource management issues of the district.
- (29) In addition, iwi authorities may have other planning documents that, while not mandatory considerations for the District Plan Review and Proposed District Plan, should still be taken into account for the Review as they are a source of information on the intentions of an iwi authority. Considering these documents can aid integrated management of natural and physical resources.
- (30) There are no iwi management plans or other relevant planning documents currently in place for Lower Hutt that are relevant to hazardous substances.

### 3.9 Hutt City Council Plans, Policies, and Strategies

- (31) In addition, there are other plans, policies and strategies of Council that, while not directly prepared under a specific Act, should be considered as part of the District Plan Review and Proposed District Plan preparation as they set Council’s intentions on some matters that need to be addressed through the District Plan Review.
- (32) The following Council plans, policies and strategies are relevant for hazardous substances:

Plan/Policy/Strategy	Comment
Vision Seaview Gracefield 2030, including implementation	This vision sets out the future strategy for the Seaview and Gracefield industrial area. Theme 1 for this vision is “providing stability and efficiency to support existing businesses”,

<p>strategy and work plan 2011</p>	<p>including the need to provide for heavy and hazardous industries.</p> <p>Theme 2 for this vision is “creating a suitable environment for the growth of new/emerging business”. Initiatives include developing growth plans that best meet the needs of businesses in Seaview and Gracefield with consideration given to existing sites, public safety issues and current location of hazardous activities.</p> <p>Theme 3 is “making better use of recreational opportunities” which is not relevant to hazardous substances.</p> <p>Theme 4 for this vision is “contributing towards a better environment”. To achieve this vision, the vision document and implementation strategy identify managing potential flood risk and improving regulatory requirements and business practices.</p> <p>The implementation plan identified the District Plan Review as a workstream that is related to the business/industrial zone provisions.</p>
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### 3.10 District Plans of adjacent Territorial Authorities

- (33) Section 74(2)(c) of the RMA requires territorial authorities, when preparing or changing a district plan, to have regard to the extent to which the district plan needs to be consistent with the plans or proposed plans of adjacent territorial authorities.
- (34) The relevance and consistency of the plans of adjacent councils (and Kāpiti Coast) is discussed below:

<b>Plan</b>	<b>Relevant Provisions</b>
Operative Kapiti Coast District Plan 2021	<p>The Kapiti Coast District Plan contains no specific provisions on hazardous substances. The use, storage and disposal of hazardous substances is not a significant resource management issue in the Kāpiti Coast District. It is noted the district has no existing significant hazardous facilities.</p> <p>As the context for hazardous substances in the Kāpiti Coast District is different from Lower Hutt, it is appropriate a different approach is proposed in Lower Hutt.</p>
Operative Porirua District Plan 1999 and Proposed Porirua District Plan 2023	<p>The approach of the Operative Porirua District Plan is based on the hazardous facilities screening procedure.</p> <p>The Proposed Porirua District Plan contains objectives and policies managing the residual risks from the use, storage and disposal of hazardous substances and controlling land use to manage reverse sensitivity risks. It contains no specific rules for hazardous substances. Rather, it relies on zone and overlay rules for managing activities that use, store or dispose of hazardous substances.</p> <p>The general approach in the Proposed Porirua District Plan is similar to the proposed approach in Lower Hutt. However, due to the presence of several significant hazardous facilities in Lower Hutt, the proposed Lower Hutt approach contains more targeted provisions.</p>
Operative Wellington City District Plan 2000 and Proposed	<p>The approach of the Operative Wellington City District Plan is based on the hazardous facilities screening procedure implemented through zone provisions.</p> <p>The Proposed Wellington City District Plan contains a separate Hazardous Substances Chapter which</p>



<p>Wellington City District Plan 2024</p>	<p>contains objectives and policies managing the residual risks from the use, storage and disposal of hazardous substances and controlling land use to manage reverse sensitivity risks. It contains specific rules for hazardous substances that manage new and expanded major hazardous facilities.</p> <p>The general approach in the Proposed Wellington City District Plan is similar to the proposed approach in Lower Hutt. However, due to the presence of several significant hazardous facilities in Lower Hutt, the proposed Lower Hutt approach contains more targeted provisions.</p>
<p>Operative Upper Hutt District Plan 2004</p>	<p>The Upper Hutt District Plan contains provisions to manage effects of hazardous substances on the environment. It contains rules that require all activities that store, use, handle or produce hazardous substances to comply with requirements for bunding and sealing sites and managing discharges.</p> <p>As the context for hazardous substances in Upper Hutt is different from Lower Hutt in that it does not have several significant hazardous facilities, it is appropriate a different and more targeted approach is proposed in Lower Hutt.</p>
<p>Operative Wairarapa Combined District Plan 2011 and Proposed Wairarapa Combined</p>	<p>The approach of the Operative Wairarapa Combined District Plan is based on listing the classification and quantity of hazardous substances for each zone, based on the sensitivity of the environment in each zone to hazardous substances.</p> <p>The Proposed Wairarapa Combined District Plan contains objectives and policies managing the residual risks from the use, storage and disposal of hazardous substances and controlling land use to manage</p>

District Plan 2023	<p>reverse sensitivity risks. It contains specific rules for hazardous substances that manage major hazardous facilities, noting there are no existing major hazardous facilities in the Wairarapa.</p> <p>The general approach in the Proposed Wairarapa Combined District Plan is similar to the proposed approach in Lower Hutt. However, due to the presence of several significant hazardous facilities in Lower Hutt, the proposed Lower Hutt approach contains more targeted provisions.</p>
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### 3.11 Other statutory and non-statutory plan, policies, strategies and guidance

- (35) In addition to Hutt City Council’s plans, policies and strategies (discussed above), there are regional and national plans, policies, strategies and guidance relevant to managing hazardous substances. While they are not mandatory considerations for the District Plan Review and Proposed District Plan preparation, they form part of the management regime for natural and physical resources in the city, and considering these documents can aid integrated management of natural and physical resources.
- (36) The following other statutory and non-statutory plans, policies, strategies and guidance are relevant for hazardous substances:

<b>Plan, Policy, Strategy or Guidance</b>	<b>Comments</b>
Ministry for the Environment/Quality Planning Website - Plan Topic on Hazardous Substances under the RMA 2019	This guidance provides an overview of the legislation for hazardous substances, areas where RMA controls may be necessary, and the methods for managing the effects of hazardous substances in RMA plans such as District Plans.

## 3.12 Other legislation or regulations

(37) In addition to the RMA, other legislation and regulations can be relevant considerations for a district plan, particularly where management of an issue is addressed through multiple pieces of legislation and regulatory bodies.

(38) These are discussed below.

Act or Regulation	Comments
Hazardous Substances and New Organisms Act 1996 (HSNO Act)	The HSNO Act is the primary legislation designed to manage hazardous substances across their life cycle (import/manufacture, classification, packaging, transport, storage, use and disposal). The purpose of the HSNO Act as set out in section 4 is to 'protect the environment, and the health and safety of people and communities by preventing or managing the adverse effects of hazardous substances and new organisms'. The HSNO Act is administered by the Ministry for the Environment, and implemented and enforced by the Environmental Protection Authority, which regulates the introduction and use of any hazardous substances, and enforces hazardous substance controls. The controls under the HSNO Act are substance-specific and are based on the particular hazardous properties of the substance.
Health and Safety at Work Act 2015 (HSW Act)	The HSW Act gives Worksafe New Zealand the responsibility for establishing workplace controls for hazardous substances. The main purpose of the HSW Act is to provide for a balanced framework to ensure the health and safety of workers and workplaces. This

	legislation is supported by a range of other regulations and guidance.
Health and Safety at Work Act (Hazardous Substances) Regulations	The Health and Safety at Work (Hazardous Substances) Regulations apply to the 'downstream' manufacture, use, handling, and storage of hazardous substances in the workplace. WorkSafe's role includes providing guidance, managing the compliance certification regime, and developing safe work instruments to set more detailed and technical rules for hazardous substances.
Health and Safety at Work (Major Hazard Facilities) Regulations 2016	The Health and Safety at Work (Major Hazard Facilities) Regulations (MHF regulations) which came into force on 4 April 2016, and mandate specific duties relating to process safety for existing and potential Major Hazard Facilities (MHF). MHF are defined under regulation 19 and 20 of the MHF Regulations as "workplaces that have significant inherent hazards due to the storage and use of large quantities of specified hazardous substances."
Land Transport Act 1998 and Land Transport Rule 45001: Dangerous Goods 2005	This Act sets out the requirements for the safe transport of dangerous goods on land in New Zealand. The Rule covers the packaging, identification and documentation of dangerous goods; the segregation of incompatible goods; transport procedures and the training and responsibilities of those involved in the transport of dangerous goods. The Rule's

	requirements are applied according to the nature, quantity, and use of the goods.
Building Act 2004	Building Code regulations under the Building Act set out requirements for protection to people and other property in buildings where hazardous substances are stored, or where hazardous processes are undertaken.
Health Act 1956	The Health Act controls nuisances, offensive trades, and the handling and storage of noxious substances.

# 4 Resource Management Issues

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## 4.1 Background

(39) The background and key issues relevant to the hazardous substances topic are outlined in the introduction of this report. The key issue summarised is that the statutory context and regulatory framework for hazardous substances has changed significantly over the period of the Operative District Plan. The provisions and approach of the Operative District Plan are now outdated, and often overlap and duplicate the role and function of other legislation and regulations. Therefore, the District Plan Review and Proposed District Plan provide the opportunity to remove duplication and clarify the role of Council in regulating hazardous substances in light of its amended responsibilities.

## 4.2 Evidence Base

(40) The Council has reviewed the operative District Plan, identified associated issues with current resource consent processes, reviewed recent resource consents, considered the primary controls under other legislation and regulations including the HSNO and HSW Acts, and reviewed the approach taken in other recently reviewed district plans. This work has been used to inform the identification and assessment of the environmental, economic, social and cultural effects that are anticipated from the implementation of the provisions in the Proposed District Plan. The following sections outline this evidence.

### 4.2.1 Existing Approach of City of Lower Hutt District Plan

(41) The operative District Plan contains objectives, policies, rules and standards for managing hazardous substances across various chapters of the District Plan, notably the zone chapters. These provisions have not been subject to review or change since the District Plan was made operative in 2003.

(42) These provisions were informed by two studies; the first in 1991 focused on the Seaview/Gracefield area to address the risk associated with the location of non-industrial activities near hazardous industries; the second study in 1995

focused on the hazardous facilities screening procedure which related to the entire city.

(43) In response, the operative District Plan incorporates two frameworks for activities that use, store and dispose of hazardous substances. These frameworks use of the Dow Index for the Special Business Activity Area (Seaview/Gracefield area) and the hazardous facilities screening procedure for all other activity areas. The Dow Index is a quantitative risk analysis method that is used for hazard identification for individual facilities and is focused on fire and explosion hazard. The hazardous facilities screening procedure is a preliminary screening method to determine whether the potential cumulative effects of hazardous substances on a proposed site are significant. This method does so by taking into account substance properties and quantities, the type and nature of the proposed storage facilities and location of the proposed site in relation to sensitive environments. This screening procedure evaluates three different types of effects, being fire/explosion, human health and the environment. In applying this screening procedure, acceptable quantity limits for permitted activities involving hazardous substances are specified in the district plan. If the cumulative effects of hazardous substances exceed these limits for any of the three effect types, a resource consent is required.

(44) Chapter 1.10.8 Area Wide Issues of the operative District Plan contains a single objective for hazardous facilities and activities as below:

*Objective: To control the effects generated by hazardous facilities and activities rather than the intrinsic properties of hazardous substances.*

(45) To achieve this objective, a single policy applies as below:

*To protect the environment from the adverse effects of hazardous facilities and activities through the use of the Dow Index and the Hazardous Facility Screening Procedure.*

(46) Chapter 6B Special Business Activity Area of the operative District Plan which applies to the Seaview/Gracefield industrial area, contains a single objective for risk associated with hazardous facilities as below.

*To protect the community and the receiving environment from the risk associated with the location and operation of hazardous facilities in Seaview/Gracefield.*

(47) To achieve this objective, six policies apply as summarised below:

- The location of hazardous facilities avoids an unacceptable level of risk to the community and environment.
- Hazardous facilities avoid adverse effects of an unacceptable level of risk to the community and/or irreversible damage to the environment.
- Safety measures are adopted by activities using, handling and storing hazardous substances and hazardous wastes.
- Safety measures are taken during transportation of hazardous substances and hazardous wastes.
- Hazardous wastes are disposed of in an environmentally safe manner.
- Accommodation of non-industrial activities within Seaview/Gracefield are managed to ensure there is an acceptable level of risk to the general public.

(48) The rules for the Special Business Activity Area permit hazardous facilities subject to various standards. Where one or more standards are not complied with, resource consent is required. One standard is not to exceed 100 on the Dow Hazard Index or exceed 1 in the effects ratio in the Hazardous Facilities Screening Procedure set out in the operative District Plan. Both measures involve a complicated calculation to determine compliance. Additional standards also apply to hazardous facilities, including site design, spill containment systems, waste management and storage. Many of these standards now duplicate or conflict with HSNO Act and HSW Act regulations.

(49) Chapter 14D Hazardous Substances of the operative District Plan is a district-wide chapter and applies to all zones apart from the Special Business Activity Area (Seaview/Gracefield area). This chapter contains a single objective as below.

*Objective: To protect the community and the receiving environment from the risk associated with the location and operation of hazardous facilities.*

(50) To achieve this objective, seven policies apply as below:

- That the location of hazardous facilities be managed to avoid or mitigate an unacceptable level of risk to the community and the receiving environment.*
- That those hazardous facilities which have a low probability of a hazardous incident, but have a high potential impact, be*



*managed by the provisions of the Special Business Activity Area in Seaview/Gracefield.*

- c. That effects likely to be generated by hazardous facilities are managed to avoid adverse effects from creating an unacceptable level of risk to the community and/or causing irreversible damage to the receiving environment.*
- d. That appropriate safety measures be adopted by activities using, handling and storing hazardous substances and hazardous wastes to avoid or mitigate any adverse effects on human health and the receiving environment.*
- e. That appropriate measures be taken during transportation of hazardous substances and wastes to ensure the safety of the general public and the environment.*
- f. That the disposal of hazardous wastes be undertaken in an environmentally safe manner and where co-disposal is necessary, in compliance with the requirements of the Silverstream landfill to protect human health and the receiving environment.*
- g. That hazardous facilities within the Wellington Fault Overlay be managed to avoid adverse effects from creating an unacceptable level of risk to the community and/or causing irreversible damage to the receiving environment.*

(51) The district-wide rules in Section 14D Hazardous Substances permit hazardous facilities subject to various standards. Resource consent is required when one or more permitted activity standard is not complied with. One standard is not to exceed an effects ratio in the Hazardous Facilities Screening Procedure set out in the operative District Plan. The threshold or value for the effects ratio varies depending on which zone the hazardous facility is in and adjacent to. In addition, a setback distance applies to hazardous facilities near sensitive activity areas or if the site is within the Wellington Fault Overlay. All these matters determine the activity status for the proposal.

(52) In addition to the effects ratio/Hazardous Facilities Screening Procedure standards, other standards also apply to hazardous facilities, including site design, spill containment systems, waste management and storage standards. Many of these standards now duplicate or conflict with HSNO Act and HSW Act regulations.

(53) In terms of the efficiency and effectiveness of the operative District Plan provisions for hazardous substances, feedback from plan users is that the rules and standards (Dow Index and Hazardous Facilities Screening Procedure) are difficult to understand and apply. A resulting issue is that adequate assessment

of hazardous substances may not be undertaken due to confusion caused by the complexity of the Dow Index and Hazardous Facilities Screening Procedure, duplication between District Plan provisions and HSNO regulations, and/or a lack of in-house technical expertise. Overall, there is confusion and inefficiencies in the operative District Plan approach, and there is duplication with the national framework for managing hazardous substances.

## **4.2.2 Analysis of other District Plans**

(54) Current practice has been considered in respect of hazardous substances, with a review undertaken of the following District Plans. It is noted that some of these plans have been prepared in accordance with the National Planning Standards.

- Proposed Porirua District Plan
- Proposed Wellington City District Plan
- Operative Kapiti Coast District Plan
- Proposed Wairarapa Combined District Plan
- Operative Christchurch District Plan
- Operative Auckland Unitary District Plan

(55) These plans were selected because:

- They have been subject to recent plan changes/reviews that have/has addressed similar issues relating to hazardous substances; and/or
- The associated Councils are of a similar nature to Lower Hutt and are confronting similar issues relating to hazardous substances; and/or
- The associated Councils are adjacent territorial authorities.

(56) A summary of the key findings follows:

- Most of the plans require resource consent for major hazard facilities or significant hazardous facilities, generally as a discretionary or non-complying activity, depending on the zone.
- There is no consistent use of terms or definitions for 'major hazard facility', 'significant hazardous facilities' etc.

- Several of the plans restrict the location of sensitive activities in proximity to significant/major hazardous facilities, either through risk management contours or a setback (250m is often used).
- Several of the plans have controls for hazardous substances and/or major/significant hazardous facilities in sensitive environments such as natural hazard overlays, waterbody setbacks etc.

### **4.2.3 Advice from Mana Whenua**

(57) The District Plan Review has included significant engagement with our mana whenua partners – Taranaki Whānui ki te Upoko o te Ika and Ngāti Toa Rangatira. This engagement and advice is summarised in the Overview Section 32 Report.

(58) No specific advice has been received from Taranaki Whānui/Ngāti Toa Rangatira regarding hazardous substances.

### **4.2.4 Stakeholder and Community Engagement**

#### **General Consultation**

(59) Extensive consultation has been undertaken as part of the District Plan Review and Proposed District Plan preparation process with key stakeholders and the local community. Refer to the Overview Section 32 Report for details on the methods that were used to carry out that consultation. Feedback from consultation relevant to the Hazardous Substances section is summarised below:

- The operative District Plan is not effective as it duplicates HSNO and other controls.
- Hazardous facilities screening procedure is an outdated tool that should be removed from the District Plan.
- Territorial authorities should, for the most part, not get involved in regulating hazardous substances.
- The management of large-scale hazardous facilities was one exception where the District Plan should consider additional controls.
- Recognition and support for the ongoing use and development of large-scale hazardous facilities in the Seaview/Gracefield area.

## Feedback on the Draft District Plan

(60) Public consultation was undertaken on the Draft District Plan from October to December 2023. The Draft District Plan contained a Hazardous Substances chapter with objectives, policies and rules specific to hazardous substances. The Draft District Plan provisions were a significant change from the operative District Plan. The current approach in the Operative District Plan, based on the quantity and hazard classification of hazardous substances on a site, was fully replaced by an approach based on listing specific activities which use, manufacture, store, or dispose of hazardous substances (defined as 'significant hazardous facilities'). The draft rules required a resource consent for any new significant hazardous facility or addition to an existing significant hazardous facility. In addition, setbacks were proposed for sensitive activities (e.g. residential activities) from existing significant hazardous facilities to manage potential risk and reverse sensitivity effects between these types of activities. Also, the draft rules proposed to control the use and storage of hazardous substances in natural hazard areas. A summary of the overall feedback on the draft approach is below:

- General approach
  - Support for or neutral position on the overall approach in the Hazardous Substances chapter
- Specific provisions relating to hazardous substances
  - General support for the objectives, policies and rules in the Hazardous Substances Chapter.
  - Request to clarify the objectives and policies are to achieve avoidance of 'unacceptable' risks to human health.
  - Request to insert a Risk Management Overlay for the bulk fuel terminals and pipelines in the Seaview/Gracefield area.
  - Request to amend the volume thresholds for storage/use of petrol and diesel in the definition of 'significant hazardous facilities' to recognise the relative risks of these two substances.

(61) In response to the feedback amendments were made to:

- Amend objectives and policies to refer to avoiding 'unacceptable' risks to human health.
- Amend the definition of 'significant hazardous facility' to clarify the thresholds for petrol and diesel.

- Amend the policies to clarify and use consistent terminology relating to risk.
- Insert a Risk Management Overlay in the planning maps for the bulk fuel terminals and pipelines in the Seaview/Gracefield area.

#### 4.2.5 Technical Information/Advice Commissioned

(62) Council has relied on technical information in the form of risk assessments supplied by the fuel companies that own and operate the bulk fuel storage facilities in the Seaview/Gracefield area. These have informed the mapping of the Risk Management Overlays.

### 4.3 Summary of Issues Analysis

(63) The statutory and policy context and available evidence outlined above identified the hazardous substances provisions needed to be fully reviewed.

(64) Based on the research, analysis, and consultation outlined above, the following issues have been identified with respect to the effectiveness of the operative District Plan:

- Issue 1: Duplication and conflict with other regulations managing hazardous substances.
- Issue 2: New sensitive activities locating in proximity to existing significant hazardous facilities and potential for reverse sensitivity effects to arise and risks to human health and property.

(65) The review has confirmed that the resource management issues requiring management for hazardous substances are now more limited than those currently managed in the operative District Plan. The significance of the issues is largely unchanged, although there are other regulations that now apply for managing hazardous substances. The following resource management issues have been identified:

Issue	Comment
Issue 1: Risks to human health, property and the environment when new significant	There is potential for a range of adverse effects to arise, even after compliance with HSNO and Health and

<p>hazardous substance facilities are established and when existing significant hazardous facilities are expanded or changed.</p>	<p>Safety at Work regulations, and regional plans.</p>
<p>Issue 2: Risks to human health and property and potential for reverse sensitive effects when new sensitive activities locate in proximity to existing significant hazardous facilities.</p>	<p>Apart from the Special Business Activity Area rules applying to the Seaview/Gracefield area, the operative District Plan does not manage new sensitive activities locating near significant hazardous facilities, potentially resulting in incompatibility issues. This incompatibility may cause reverse sensitivity effects that may impact on the ability of such facilities to operate, as well as expose occupants in sensitive activities to unacceptable risks from fire or explosion.</p>

# 5 Scale and Significance Assessment

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(66) In writing this evaluation report, Council must provide an assessment at a level of detail that corresponds to the scale and significance of the environmental, economic, social, and cultural effects anticipated from the implementation of the proposal.

(67) In assessing that scale and significance, Council has had regard to:

<b>Matters of national importance</b>	The proposal has some applicability to matters of national importance in Section 6 of the RMA if a significant hazardous facility is located near or within an area relating to one of these matters.
<b>Degree of change from the operative plan</b>	The degree of change from the Operative District Plan is medium. The provisions reflect current District Plan practice of managing residual risk, minimise duplication with other legislation and regulations, and are simpler than the current provisions.
<b>Geographic scale of effects</b>	The provisions apply district-wide and affect those who use, store or dispose of large quantities of hazardous substances or specific types of industrial or processing activities. In addition, the Risk Management Overlay applies to the area immediately surrounding the bulk fuel storage facilities in Seaview.
<b>Number of people affected</b>	The provisions will have a particular impact on owners and operators of

	significant hazardous facilities, and owners and occupiers of properties surrounding the bulk fuel storage facilities. The number of people affected is therefore limited.
<b>Duration of effects</b>	The duration of effects is ongoing.
<b>Economic impacts</b>	There are moderate economic impacts of the proposed provisions, as the provisions support the ongoing functioning of significant hazardous facilities, while also restricting the use of some land.
<b>Social and cultural impacts</b>	There are moderate social impacts of the proposed provisions, as the proposed provisions protect the health and safety of people in specific areas.
<b>Environmental impacts</b>	There are moderate environmental impacts of the proposed provisions, as they manage significant hazardous facilities including on sensitive environments.
<b>Health and safety impacts</b>	The purpose of the hazardous substances provisions is to protect the health and safety of people. Therefore, this matter is highly relevant.
<b>Degree of interest from mana whenua</b>	There is a low level of interest from mana whenua relating to hazardous substances based on no comments received on this topic.
<b>Degree of interest from the public</b>	There is a low level of interest from the public based on the minimal comments



	received on the Draft District Plan for this topic.
<b>Degree of risk or uncertainty</b>	The approach is based on currently available information. Other hazardous substances regulations manage the risk of hazardous substances. The Hazardous Substances Chapter seeks to manage the risks generated beyond the other regulations. Therefore, low degree of risk or uncertainty about the provisions.

(68) Accordingly, the overall scale and significance of the effects of hazardous substances are **moderate**.

# 6 Proposed District Plan

## Objectives and Provisions

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(69) This section contains a summary of the objectives for the Hazardous Substances chapter. A summary of the policies and rules for each objective is also provided.

Objective	Text and associated provisions
HS-01	<p><b>Protection from residual risk</b></p> <p><b>People, communities, and the environment are protected from the unacceptable <i>residual risk</i> of facilities and activities involving the manufacture, use, storage, transportation or disposal of <i>hazardous substances</i>.</b></p> <p>The policies and rules achieve this objective by applying a regulatory approach to ensure activities which manufacture, use, store, transport and dispose of hazardous substances, including significant hazardous facilities, are appropriately located and managed. Resource consent is required for significant hazardous facilities in all zones.</p> <p>In addition, policies and rules in other district-wide chapters apply a regulatory approach to managing significant hazardous facilities in sensitive environments. For example, the Natural Hazards Chapter manages the establishment of new and additions to existing significant hazardous facilities in areas identified as subject to significant natural hazard risks.</p>

<p>HS-O2</p>	<p><b><i>Sensitive activities are located where they:</i></b></p> <ol style="list-style-type: none"> <li><b>1. Avoid areas exposed to unacceptable <i>residual risk</i> from existing <i>significant hazardous facilities</i>; and</b></li> <li><b>2. Do not compromise the operation of existing <i>significant hazardous facilities</i> due to reverse sensitivity effects.</b></li> </ol> <p>The policies and rules achieve this objective by applying a regulatory approach to manage new sensitive activities within areas identified as being subject to unacceptable residual risk from existing significant hazardous facilities. These areas are spatially mapped on the planning maps and are called the Risk Management Overlay.</p>
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# 7 Evaluation of Objectives

- (70) This section is the evaluation of objectives, as required through s32(1)(a) of the RMA.
- (71) An objective is a statement of what is to be achieved through the resolution of a particular resource management issue. A district plan objective should set out a desired end state to be achieved through the implementation of policies and rules.
- (72) Under s75(1)(a) of the RMA, a district plan must state the objectives for the district.
- (73) Under s32(1)(a) of the RMA, an evaluation report required under the Act must examine the extent to which the objectives of the proposal being evaluated are the most appropriate way to achieve the purpose of the RMA. The purpose of the RMA, as stated in s5(1) of the Act, is to promote the sustainable management of natural and physical resources.

Proposed Objectives	Summary of Evaluation (relevance, usefulness, achievability, reasonableness)
HS-O1  People, communities, and the environment are protected from the unacceptable <i>residual risk</i> of facilities and activities involving the manufacture, use, storage, transportation or	<ul style="list-style-type: none"> <li>• The proposed objective directly addresses the identified resource management issue of the risk to people, property and the environment from the use, storage and disposal of hazardous substances. In particular, the issue relates to hazardous facilities that store, manufacture or handle larger quantities of hazardous substances (referred to as 'significant hazardous facilities').</li> <li>• The proposed objective clearly articulates the outcomes sought and includes a threshold of 'unacceptable residual risk' that is measurable based on international guidance for different land use activities and environments.</li> <li>• The outcome will achieve the purpose of the RMA to enable people and communities to provide for</li> </ul>

<p>disposal of <i>hazardous substances</i>.</p>	<p>their social, economic, and cultural wellbeing by providing for the use and development of hazardous facilities. It also provides for the health and safety of people, property, and the environment by setting a risk threshold.</p> <ul style="list-style-type: none"> <li>• The proposed objective does not create unjustifiably high costs on the community, although it does have costs for owners and operators of hazardous facilities.</li> <li>• The proposed objective applies residual risk, which means the level of risk remaining after industry controls, legislation and regulations are complied with. Focusing on the residual risk avoids duplication of regulation and associated costs.</li> </ul>
<p>HS-O2</p> <p><i>Sensitive activities</i> are located where they:</p> <ol style="list-style-type: none"> <li>1. Avoid areas exposed to unacceptable <i>residual risk</i> from existing <i>significant hazardous facilities</i>; and</li> <li>2. Do not compromise the operation of existing <i>significant</i></li> </ol>	<ul style="list-style-type: none"> <li>• The proposed objective directly addresses the identified resource management issue of the risks to human health and property from incompatible land use when new sensitive activities locate in proximity to existing significant hazardous facilities.</li> <li>• The proposed objective clearly articulates the outcomes sought and includes a threshold of 'unacceptable residual risk' that is measurable based on international guidance for different land use activities and environments.</li> <li>• The outcome will achieve the purpose of the RMA to enable people and communities to provide for their social, economic, and cultural wellbeing by providing for the use and development of hazardous facilities, while also providing ongoing opportunities for owners and occupiers of land to develop their land for industrial and other permitted and appropriate activities (and thereby meet their economic needs). Additionally, it</li> </ul>

<p><i>hazardous facilities due to reverse sensitivity effects.</i></p>	<p>provides for the health and safety of people, property, and the environment by setting a risk threshold.</p> <ul style="list-style-type: none"> <li>• The proposed objective does not create unjustifiably high costs on the community, although there are costs for owners and operators of land near significant hazardous facilities where more sensitive land uses will be restricted.</li> <li>• The proposed objective provides certainty in terms of the long-term operation of existing facilities of regional significance through proactively managing the potential for reverse sensitivity effects and ensuring activities, including sensitive activities, located near the significant hazardous facilities are compatible in terms of risk acceptance criteria.</li> </ul>
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(74) There are two alternatives to the proposed objectives for hazardous substances. These alternatives are the objectives in the operative District Plan, or having no objectives specific to hazardous substances. These alternatives are evaluated below.

<b>Alternative Objectives</b>	<b>Summary of Evaluation (relevance, usefulness, achievability, reasonableness)</b>
<p>Operative District Plan 14D 1.1.1 Objective To protect the community and the receiving environment from the risk</p>	<ul style="list-style-type: none"> <li>• The existing objective directly addresses the identified resource management issues of the risk to people, property and the environment from the use, storage and disposal of hazardous substances.</li> <li>• The existing objective provides a more general outcome statement on what is sought to be achieved and is not as useful.</li> <li>• The outcome will achieve the purpose of the RMA to enable people and communities to provide for their social, economic, and cultural wellbeing by providing for the use and development of hazardous</li> </ul>

<p>associated with the location and operation of hazardous facilities.</p>	<p>facilities. It also, provides for the health and safety of people.</p> <ul style="list-style-type: none"> <li>• The existing objective does not create unjustifiably high costs on the community, although it does have costs for owners and operators of hazardous facilities.</li> </ul>
<p>No Hazardous Substances Objectives</p>	<ul style="list-style-type: none"> <li>• No objective means the identified resource management issues of the risk to people, property and the environment from the use, storage and disposal of hazardous are not addressed, potentially resulting in adverse effects on the environment and human health. With no objectives and no associated provisions, sensitive activities could be unknowingly exposed to an unacceptable level of risk, which in turn could result in undue constraints being imposed on the bulk fuel storage facilities (i.e. through reverse sensitivity effects/complaints) thereby imposing unnecessary costs and fuel supply issues to the wider community.</li> <li>• This outcome would not achieve the purpose of the RMA to enable people and communities to provide for their social, economic, and cultural wellbeing by providing for the use and development of hazardous facilities. It also does not provide for the health and safety of people.</li> <li>• No objective would not impose financial costs on the community. However, it could have social and environmental costs in terms of risks to people and the environment.</li> <li>• No objective could result in direct economic costs from the loss of productivity from reverse sensitivity effects and constraints being placed on existing significant activities. This loss of productivity could have indirect flow on costs to the economy and</li> </ul>

	community from less supply of hazardous substances.
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- (75) Overall, the proposed objectives are the most appropriate means of achieving the purpose of the RMA by enabling social, economic, and cultural well-being while avoiding, remedying and mitigating adverse effects on the environment. The proposed objectives also ensure the use, storage, and handling of hazardous substances is appropriately recognised and managed within the city and that unnecessary duplication of related requirements in the HSNO and HSW legislation is avoided. Additionally, they provide increased certainty regarding the anticipated outcomes sought under the District Plan in relation to hazardous substances management, including incompatibility issues.



## 8 Evaluation of Policies and Rules

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- (76) Policies and rules implement, or give effect to, the objectives of a plan.
- (77) Policies of a district plan are the course of action to achieve or implement the plan's objective (i.e. the path to be followed to achieve a certain, specified, environmental outcome). Rules of a district plan implement the plan's policies, and have the force and effect of a regulation.
- (78) Under s32(1)(b) of the RMA, an evaluation report required under the Act must examine whether the provisions in the proposal are the most appropriate way to achieve the objectives by—
- (i) identifying other reasonably practicable options for achieving the objectives; and*
  - (ii) assessing the efficiency and effectiveness of the provisions in achieving the objectives; and*
  - (iii) summarising the reasons for deciding on the provisions.*
- (79) Under s32(2) of the RMA, the assessment of the efficiency and effectiveness of the provisions must:
- (a) identify and assess the benefits and costs of the environmental, economic, social, and cultural effects that are anticipated from the implementation of the provisions, including the opportunities for—*
    - (i) economic growth that are anticipated to be provided or reduced; and*
    - (ii) employment that are anticipated to be provided or reduced; and*
  - (b) if practicable, quantify the benefits and costs referred to in paragraph (a); and*

(c) *assess the risk of acting or not acting if there is uncertain or insufficient information about the subject matter of the provisions.*

(80) The reasonably practicable options for achieving the objectives of the Proposed District Plan in relation to hazardous substances are:

- Option 1: The proposed provisions
- Option 2: Retaining the status quo – operative District Plan policies and rules
- Option 3: No District Plan provisions for hazardous substances, and reliance on the zones and overlays in the Proposed District Plan and other legislation and regulations relating to hazardous substances (e.g. HSNO and HSW Acts and associated regulations) to manage potential adverse effects.

(81) For each option, an evaluation has been undertaken relating to the costs, benefits and the certainty and sufficiency of information in order to determine the effectiveness and efficiency of the approach, and whether it is the most appropriate way to achieve the relevant objective(s).

(82) In addition to the provisions in the Hazardous Substances Chapter, some overlays also apply to facilities and activities involving the manufacture, use, storage, transportation and disposal of hazardous substance. The evaluation for the overlays is contained in the relevant section 32 report for each overlay.

**Objectives:**

HS-O1: People, communities, and the environment are protected from the unacceptable *residual risk* of facilities and activities involving the manufacture, use, storage, transportation or disposal of *hazardous substances*.

HS-O2: *Sensitive activities* are located where they:

1. Avoid areas exposed to unacceptable *residual risk* from existing *significant hazardous facilities*; and

2. Do not compromise the operation of existing *significant hazardous facilities* due to reverse sensitivity effects.

Option 1: Proposed provisions	Costs	Benefits
<p><b>Policies:</b></p> <ul style="list-style-type: none"> <li>• <i>HS-P1 Location of hazardous facilities</i></li> <li>• <i>HS-P2 Identify areas of unacceptable residual risk</i></li> <li>• <i>HS-P3 Location of sensitive activities</i></li> </ul> <ul style="list-style-type: none"> <li>• The first policy ensures hazardous facilities are located and managed to avoid unacceptable residual risk and avoid, remedy or mitigate adverse effects on sensitive environments.</li> <li>• The second and third policies identify areas of unacceptable residual risk and direct sensitive activities to avoid locating in these areas.</li> </ul> <p><b>Rules</b></p> <ul style="list-style-type: none"> <li>• <i>HS-R1 Additions or alterations to existing significant hazardous facilities</i></li> <li>• <i>HS-R2 New significant hazardous facilities</i></li> </ul>	<p><b>Environmental</b></p> <ul style="list-style-type: none"> <li>• This approach relies on other legislation and regulations to manage risks to people, property and the environment for land use activities that are not significant hazardous facilities. There may be some adverse effects on people, property and the environment if these other legislation and regulations do not manage these effects.</li> <li>• For significant hazardous facilities with no Risk Management Overlay, there is the potential for incompatible activities to be located near these existing facilities which could result exposure of people to unacceptable risk to human health and reverse sensitivity effects. However, as sensitive activities are not generally permitted by the underlying zone (Heavy Industrial), this cost is minimal.</li> </ul> <p><b>Economic</b></p>	<p><b>Environmental</b></p> <ul style="list-style-type: none"> <li>• Requiring resource consents for the establishment, upgrade, or expansion of significant hazardous facilities ensures adverse effects on people, property and the environment from significant hazardous facilities are managed, reducing the risk to human health and safety.</li> <li>• For significant hazardous facilities with a Risk Management Overlay, this approach ensures incompatible activities are not located near these existing facilities, thereby reducing potential for incompatibility issues and exposure of people to unacceptable risk to human health.</li> </ul> <p><b>Economic</b></p> <ul style="list-style-type: none"> <li>• This approach enables activities and facilities involving the manufacture, use, storage, or disposal of hazardous substances, including existing significant hazardous facilities to</li> </ul>

<ul style="list-style-type: none"> <li>• <i>HS-R3 New activities sensitive to hazardous substance risks within risk management overlay</i></li> <li>• The first two rules require resource consent for additions or alterations to existing significant hazardous facilities, or constructing new significant hazardous facilities. The activity status for new significant hazardous facilities varies depending on the sensitivity of the zone in which the significant hazardous facility is located. More stringent activity status (e.g. non-complying) applies in environments sensitive to the risks of hazardous substances (e.g. residential zones) and more permissive activity status (restricted discretionary) applies in less sensitive environments such as the industrial zones.</li> <li>• Locating a new activity sensitive to hazardous substance risks within a Risk Management Overlay requires resource consent as a non-complying activity.</li> </ul> <p><b>Other Methods</b></p>	<ul style="list-style-type: none"> <li>• There are costs associated with resource consent processes for expanding, upgrading or constructing new significant hazardous facilities. These costs would be incurred by owners and operators of significant hazardous facilities.</li> <li>• The compliance costs for owners and operators of hazardous facilities likely to be lower compared to the existing rules, which require an assessment and risk calculation on whether resource consent is required.</li> <li>• The rules may potentially limit the establishment of new or expansion of existing significant hazardous facilities, particularly if they do not reflect current or future development aspirations or are proposed within sensitive areas. This could potentially restrict some opportunities for economic growth and associated employment opportunities.</li> <li>• The Risk Management Overlay restricts the location where activities sensitive to hazardous substance risks can establish, thereby potentially reducing the efficient use of land. However, activities sensitive to hazardous substance risks are not generally permitted by the underlying</li> </ul>	<p>continue to operate efficiently and effectively.</p> <ul style="list-style-type: none"> <li>• There will be reduced resource consent costs, time, and uncertainty for applicants due to removal of duplication with existing legislation and regulations.</li> <li>• Ease of administration of the rules and standards due to a list of what activities are defined as a 'significant hazardous facility' and showing the Risk Management Contours on the Planning Maps which avoids the need for any calculations. In turn, results in less time and costs to determine compliance and whether resource consent is required.</li> <li>• The Risk Management Overlay promotes long-term security for regionally significant bulk fuel storage facilities and the associated security of reliable fuel supplies. Flow on benefits accrue to downstream activities that are reliant on existing and future fuel supplies, including the employment opportunities they provide.</li> </ul> <p><b>Social</b></p> <ul style="list-style-type: none"> <li>• This approach ensures that people, communities, and areas within the</li> </ul>
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<ul style="list-style-type: none"> <li>• <i>HSNO and HSW Acts and associated regulations.</i></li> <li>• <i>Wellington Natural Resources Plan (Regional Plan) for discharges of hazardous substances.</i></li> </ul>	<p>zone (Heavy Industrial), the opportunity cost is minimal.</p> <ul style="list-style-type: none"> <li>• There are costs for owners and operators of hazardous facilities to prepare Quantitative Risk Assessments to identify the location of the Risk Management Overlay.</li> </ul> <p><b>Social</b></p> <ul style="list-style-type: none"> <li>• The Risk Management Overlay may result in some property owners and occupiers becoming concerned about the level of risk relating to a hazard event at a bulk fuel storage facility.</li> </ul> <p><b>Cultural</b></p> <ul style="list-style-type: none"> <li>• No cultural costs have been identified.</li> </ul>	<p>Risk Management Overlay are protected from unacceptable risk.</p> <ul style="list-style-type: none"> <li>• It provides certainty to owners/operators of hazardous facilities, businesses, neighbours, Council, and the wider community about the role of Council, and other legislation and regulations managing hazardous facilities.</li> <li>• It directs activities sensitive to hazardous substance risks to locate in areas where they will not be exposed to unacceptable risks to life and property.</li> </ul> <p><b>Cultural</b></p> <ul style="list-style-type: none"> <li>• The proposed provisions ensure that the risk to sites and areas of significance to Māori and their values are avoided, or where avoidance is not possible, unacceptable risk is adequately mitigated as managed in the Sites and Areas of Significance to Māori chapter.</li> </ul>
<p><b>Risk of Acting / Not Acting if there is uncertain or insufficient information about</b></p>	<ul style="list-style-type: none"> <li>• The information available is generally considered certain and sufficient to inform the proposed policies and rules and evaluation of the options.</li> <li>• However, there is no or limited information on the level of risk for some existing significant hazardous facilities. These existing facilities may have an area of unacceptable residual risk which extends beyond their site boundary, therefore a Risk Management Overlay could apply. However, in the absence of a Quantitative Risk Assessment (QRA) for these existing</li> </ul>	

<p><b>the subject matter of the provisions</b></p>	<p>facilities, the risk of acting is considered low as the underlying zone (Heavy Industrial) does not permit sensitive activities. If in the future information became available on the level of risk for these existing facilities which demonstrates the area of unacceptable residual risk extends beyond the site boundary, a Risk Management Overlay could be added in a future plan change.</p>	
<p><b>Effectiveness and efficiency</b></p>	<p><b>Effectiveness</b></p>	<p><b>Efficiency</b></p>
	<p>The proposed provisions are the most effective method of achieving the objectives as together they will:</p> <ul style="list-style-type: none"> <li>• Ensure that the effects of significant hazardous facilities are fully considered, including on the people, communities, property and the environment.</li> <li>• Manage any new activities sensitive to hazardous substance risks establishing within the Risk Management Overlay through a resource consent process. This approach has been evaluated through other District Plans (e.g. Auckland, Christchurch, Dunedin) and is considered an effective land use planning tool. A risk threshold of <math>1 \times 10^{-6}</math> has been adopted for the level of unacceptable risk based on</li> </ul>	<p>The proposed provisions are the most efficient method of achieving the objectives, as based on the above evaluation, the benefits outweigh the costs. In addition, the provisions are the most efficient because they will:</p> <ul style="list-style-type: none"> <li>• Only address the matters necessary to control effects under the RMA that are not otherwise addressed by controls in other legislation or regulations for hazardous substances. In particular, the proposed provisions protect people, communities, property, and the environment from unacceptable risk outside the site of significant hazardous facilities and manage reverse sensitivity effects of existing significant hazardous facilities.</li> </ul>

	<p>residential activities in the New South Wales Department of Planning: Risk Criteria for Land Use Safety Planning (HIPAP 4). By restricting new sensitive activities from establishing within the overlay, the risk to future occupants of these activities is managed to an acceptable level.</p>	<ul style="list-style-type: none"> <li>• Avoid duplication and associated costs with other legislation and regulations for hazardous substances.</li> <li>• The proposed provisions rely on the district-wide/overlay chapters to manage hazardous facilities locating in sensitive environments, such as coastal and riparian margins. This approach is efficient and represents an integrated district plan framework and structure.</li> <li>• The proposed provisions generally rely on the zone chapters to manage incompatible and sensitive activities from establishing near existing significant hazardous facilities. Additional provisions in the Hazardous Substances chapter only apply in locations specifically identified as having unacceptable level of risk (i.e. Risk Management Contours). This approach is efficient as it minimises duplication of provisions.</li> </ul>
<p><b>Overall evaluation</b></p>	<p>The proposed approach is the most appropriate approach to achieve the objectives as it provides clarity on Council’s responsibilities and recognises the role of existing legislation and</p>	

	regulations including the HSNO and HSW Acts, regulations, industry guidelines, and regional plans, while ensuring that unacceptable risk, reverse sensitivity effects, and significant hazardous facilities are managed.
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<b>Alternative provisions to implement the Objective(s)</b>	<b>Costs</b>	<b>Benefits</b>
<b>Option 2: Status Quo</b>		
<b>Policies 14D 1.1:</b> <ul style="list-style-type: none"> <li>• (a) Location of hazardous facilities</li> <li>• (b) Manage hazardous facilities in the Seaview/Gracefield area</li> <li>• (c) Manage hazardous facilities to avoid unacceptable level of risk</li> <li>• (d) Adopt safety measures in handling and storage hazardous substances</li> <li>• (e) Appropriate measures to transport hazardous substances</li> </ul>	<b>Environmental</b> <ul style="list-style-type: none"> <li>• There are potential effects of sensitive or incompatible activities locating close to hazardous facilities, thereby increasing the risk to human health and safety. However, as sensitive activities are not generally permitted by the underlying zone (Special Business), this cost is minimal.</li> </ul> <b>Economic</b> <ul style="list-style-type: none"> <li>• There are potential effects of sensitive or incompatible activities locating close to hazardous facilities, thereby increasing the risk to human health and safety. This could result in established hazardous facilities needing to change their operations or procedures or undertake additional requirements to protect</li> </ul>	<b>Environmental</b> <ul style="list-style-type: none"> <li>• The resource consent requirements for hazardous facilities ensures adverse effects on people, property and the environment from hazardous facilities are managed, reducing the risk to human health and safety.</li> </ul> <b>Economic</b> <ul style="list-style-type: none"> <li>• This approach enables activities and facilities involving the manufacture, use, storage, or disposal of hazardous substances, including existing significant hazardous facilities, to continue to operate.</li> </ul> <b>Social</b>



<ul style="list-style-type: none"> <li>• (f) Dispose of hazardous wastes in environmentally safe manner</li> <li>• (g) Manage hazardous facilities within the Wellington Fault Overlay</li> </ul> <ul style="list-style-type: none"> <li>• The policies manage various aspects of hazardous facilities, including location, storage, transportation and disposal of hazardous substances.</li> <li>• A specific policy recognises the low probability of a hazardous incident, but high potential impact, of hazardous facilities in the Seaview/Gracefield area.</li> <li>• A specific policy recognises and manages the risks of hazardous facilities within the Wellington Fault Overlay.</li> </ul> <p><b>Rules 14D 2.1</b></p> <ul style="list-style-type: none"> <li>• (a) Consent Status Matrix, including Table 1: Consent</li> </ul>	<p>health and safety of people, which adds costs to their operations.</p> <ul style="list-style-type: none"> <li>• There is a cost to applicants for resource consent, which duplicates other requirements under other regulations.</li> <li>• There is a cost to Council in administering the provisions, which duplicates other requirements under other regulations.</li> <li>• The provisions are technically complex and require technical expertise to interpret and implement, particularly the Hazardous Facilities Screening Procedure and Dow Index. There are increased compliance costs to determine whether resource consent is required.</li> </ul> <p><b>Social</b></p> <ul style="list-style-type: none"> <li>• The provisions are technically complex, particularly the Hazardous Facilities Screening Procedure and Dow Index, which may inadvertently mean hazardous substances provisions are not accurately assessed, resulting in inefficient plan administration.</li> </ul> <p><b>Cultural</b></p> <ul style="list-style-type: none"> <li>• No cultural costs have been identified.</li> </ul>	<ul style="list-style-type: none"> <li>• The resource consent requirements for hazardous facilities ensures adverse effects on people, property and the environment from hazardous facilities are managed, reducing the risk to human health and safety.</li> </ul> <p><b>Cultural</b></p> <ul style="list-style-type: none"> <li>• The proposed provisions ensure that the risk to sites and areas of significance to Māori and their values are avoided, or where avoidance is not possible, unacceptable risk is adequately mitigated as managed in the Sites and Areas of Significance to Māori Chapter.</li> </ul>
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<p><i>Status Matrix with effects ratio trigger for each zone</i></p> <ul style="list-style-type: none"> <li>• <i>(b) Interface provisions, including Table 2 Width of Buffer Strip for hazardous facilities adjacent to more sensitive zone and Table 3 Effects Ratio Trigger Level for more Hazardous Zones</i></li> <li>• <i>(c) Wellington Fault Overlay, including Table 4 Effects Ratio Trigger Level within the Wellington Fault Overlay</i></li> <li>• <i>(d) Site Design for Hazardous Facilities</i></li> <li>• <i>(e) Spill Containment System for Hazardous Facilities</i></li> <li>• <i>(f) Stormwater Drainage for Hazardous Facilities</i></li> <li>• <i>(g) Washdown Areas for Hazardous Facilities</i></li> <li>• <i>(h) Underground Storage Tanks</i></li> <li>• <i>(i) Signage</i></li> <li>• <i>(j) Waste Management</i></li> <li>• <i>14D 2.2 – 14D 2.3 Restricted Discretionary and Discretionary Activity for</i></li> </ul>		
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<p><i>non-compliance with the above standards.</i></p> <ul style="list-style-type: none"> <li>• These rules manage site design and various other matters. The rules use the Hazardous Facilities Screening Procedure and a Consent Status Matrix to determine whether resource consent is required, and if so, the activity status.</li> <li>• In the Seaview/Gracefield area, the Dow Index and Consent Status Matrix are used to determine whether resource consent is required, and if so, the activity status.</li> </ul> <p><b>Other Methods</b></p> <ul style="list-style-type: none"> <li>• <i>HSNO and HSW Acts and associated regulations.</i></li> <li>• <i>Natural Resources Plan (Regional Plan) for discharges of hazardous substances.</i></li> </ul>		
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<b>Risk of Acting / Not Acting if there is uncertain or insufficient information about the subject matter of the provisions</b>	The information available is generally considered certain and sufficient to inform the proposed policies and rules and evaluation of the options.	
<b>Effectiveness and efficiency</b>	<b>Effectiveness</b>	<b>Efficiency</b>
	<p>The existing (operative District Plan) provisions are not the most effective method of achieving the objectives as together they fail to:</p> <ul style="list-style-type: none"> <li>• Protect significant hazardous facilities from being compromised by sensitive activities due to reverse sensitivity effects.</li> <li>• Protect people and communities from locating in areas exposed to unacceptable residual risk from significant hazardous facilities.</li> </ul>	<p>The existing (operative District Plan) provisions are not the most efficient method of achieving the objectives, as based on the above evaluation, the costs outweigh the benefits. In addition, the provisions are not the most efficient because they:</p> <ul style="list-style-type: none"> <li>• Duplicate other legislation and regulations for hazardous substances, in particular site design, handling, storage and disposal.</li> <li>• Apply a technical and complex approach which is not easy to understand and apply, meaning it is not often accurately assessed.</li> <li>• Fail to directly address the issue of reverse sensitivity effects for significant hazardous</li> </ul>

		<p>facilities, which could result in the efficient functioning of these facilities.</p>
<p><b>Overall evaluation</b></p>	<p>This approach is not appropriate because it duplicates existing legislative and regulatory controls for hazardous facilities, is inconsistent with Council's amended responsibilities following the Resource Legislation Amendment Act 2017 and relies on the technically complex Hazardous Facilities Screening Procedure and Dow Index. In addition, it does not directly address the issue of reverse sensitivity effects for significant hazardous facilities and people locating in areas exposed to unacceptable residual risk from significant hazardous facilities.</p>	

<p><b>Alternative provisions to implement the Objective(s)</b></p> <p><b>Option 3: No specific hazardous substance provisions. Rely on Zone and District-Wide chapters and other legislation and regulations relating to hazardous substances</b></p>	<p><b>Costs</b></p>	<p><b>Benefits</b></p>
<p><b>Policies</b></p> <ul style="list-style-type: none"> <li>• <i>Zone policies direct appropriate/ inappropriate activities in each zone. Heavy Industrial Zone applies to Seaview/Gracefield and Light or General Industrial Zone applies to other locations where hazardous facilities may locate.</i></li> <li>• <i>District-Wide/Overlay policies direct appropriate/inappropriate activities in each overlay.</i></li> <li>• The policies in each district-wide/overlay chapter identify</li> </ul>	<p><b>Environmental</b></p> <ul style="list-style-type: none"> <li>• This approach relies on other legislation and regulations to manage risks to people, property and the environment for land use activities that involve the use, storage, transportation and disposal of hazardous substances. There may be some adverse effects on people, property and the environment if these other legislation and regulations do not manage these effects.</li> <li>• There are potential effects of sensitive or incompatible activities locating close to hazardous facilities, thereby increasing the risk to human health and safety. However, as sensitive activities are not generally permitted by the underlying zone (Special Business), this cost is minimal.</li> </ul>	<p><b>Environmental</b></p> <ul style="list-style-type: none"> <li>• When resource consent is required under the zone or overlay provisions, this potentially ensures adverse effects on people, property and the environment from hazardous facilities are managed, reducing the risk to human health and safety.</li> </ul> <p><b>Economic</b></p> <ul style="list-style-type: none"> <li>• This approach enables activities and facilities involving the manufacture, use, storage, or disposal of hazardous substances, including existing significant hazardous facilities to continue to operate.</li> </ul>

<p>land use activities which are enabled, managed or restricted in each overlay. These policies would direct when hazardous facilities are appropriate and inappropriate.</p> <ul style="list-style-type: none"> <li>No specific policies in the zones or overlays for hazardous facilities.</li> </ul> <p><b>Rules</b></p> <ul style="list-style-type: none"> <li><i>Zone rules permit or require resource consent for different land use activities. May include standards for specific land use activities.</i></li> <li><i>District-Wide/Overlay rules permit or require resource consent for different land use activities. May include standards for specific land use activities.</i></li> <li>A suite of rules that permit or require resource consent for different land use activities, depending on the outcomes</li> </ul>	<ul style="list-style-type: none"> <li>There are potential effects on sensitive environments, such as coastal and riparian margins, due to lack of specific recognition of the sensitivities of these environments from hazardous substances.</li> </ul> <p><b>Economic</b></p> <ul style="list-style-type: none"> <li>There are potential effects of sensitive or incompatible activities locating close to hazardous facilities, thereby increasing the risk to human health and safety. This could result in established hazardous facilities needing to amend their operations or procedures or undertake additional requirements to protect health and safety of people, which adds costs to their operations.</li> </ul> <p><b>Social</b></p> <ul style="list-style-type: none"> <li>There are potential effects of sensitive or incompatible activities locating close to hazardous facilities, thereby increasing the risk to human health and safety. However, as sensitive activities are not generally permitted by the underlying zone (Special Business), this cost is minimal.</li> </ul> <p><b>Cultural</b></p> <ul style="list-style-type: none"> <li>No cultural costs have been identified.</li> </ul>	<p><b>Social</b></p> <ul style="list-style-type: none"> <li>When resource consent is required under the zone or overlay provisions, this potentially ensures adverse effects on people, property and the environment from hazardous facilities are managed, reducing the risk to human health and safety.</li> </ul> <p><b>Cultural</b></p> <ul style="list-style-type: none"> <li>No cultural benefits have been identified.</li> </ul>
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<p>and sensitivities of each zone and environment.</p> <ul style="list-style-type: none"> <li>No specific rules in the zones or overlays for hazardous facilities.</li> </ul> <p><b>Other Methods</b></p> <ul style="list-style-type: none"> <li><i>HSNO and HSW Acts and associated regulations.</i></li> <li><i>Wellington Natural Resources Plan (Regional Plan) for discharges of hazardous substances.</i></li> </ul>		
<p><b>Risk of Acting / Not Acting if there is uncertain or insufficient information about the subject matter of the provisions</b></p>	<p>The information available is generally considered certain and sufficient to inform the proposed policies and rules and evaluation of the options.</p>	
<p><b>Effectiveness and efficiency</b></p>	<p><b>Effectiveness</b></p>	<p><b>Efficiency</b></p>
	<p>Reliance on the zone and overlay provisions and other legislation and regulations to manage hazardous substances is not the most effective method of achieving the objectives as together they fail to:</p>	<p>Reliance on the zone and overlay provisions and other legislation and regulations to manage hazardous substances is not the most efficient method of achieving the objectives as based on the above evaluation,</p>



	<ul style="list-style-type: none"> <li>• Protect significant hazardous facilities from being compromised by sensitive activities due to reverse sensitivity effects.</li> <li>• Protect people and communities from locating in areas exposed to unacceptable residual risk from significant hazardous facilities.</li> <li>• Protect sensitive environments, such as coastal and riparian margins from the adverse effects of hazardous facilities.</li> </ul>	<p>as the costs outweigh the benefits. In addition, the provisions are not the most efficient because they:</p> <ul style="list-style-type: none"> <li>• Fail to directly address the issue of risk to human health, property and the environment when new significant hazardous substances are established and when existing significant hazardous facilities are expanded or changed.</li> <li>• Fail to directly address the issue of reverse sensitivity for significant hazardous facilities, which could result in the efficient functioning of these facilities.</li> </ul>
<p><b>Overall evaluation</b></p>	<p>This approach is not the most appropriate option because it does not respond to the issues identified for hazardous substances. No specific provisions for hazardous substances means the two objectives are not achieved, because the zone and overlay provisions do not recognise the nature or type of effects that arise from hazardous substances, such as exposing people to unacceptable residual risk from an incident at a significant hazardous facility.</p>	

## 9 Summary

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(83) This evaluation has been undertaken in accordance with section 32 of the RMA in order to identify the need, benefits and costs, and appropriateness of the proposal, while having regard to its effectiveness and efficiency relative to other means of achieving the purpose of the RMA. The evaluation demonstrates that this proposal is the most appropriate option as:

- The proposed objectives are specific to hazardous substances and more clearly articulate the outcomes sought compared to other options, including avoiding unacceptable residual risk to sensitive activities and minimising risks to people, property, and the environment;
- The policies and rules only seek to manage matters not otherwise addressed by other legislation and regulation relating to hazardous substances;
- The topic-specific Hazardous Substances Chapter and simplification of provisions reduces the current complexities of the Operative District Plan;
- The proposed approach places importance on locating significant hazardous facilities in appropriate locations away from activities sensitive to hazardous substance risks and requires setbacks from important environmental features. It also seeks to ensure existing significant hazardous facilities are not compromised by new activities sensitive to hazardous substance risks.