

Section 42A Officer's Report

Hearing Stream 2: Business

Subjects: Commercial and Mixed Use Zones
Contaminated Land and Hazardous Substances
(this report)
Industrial Zones and the Seaview Marina Zone

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2 Introduction

- (1) This report is the Officers Report for Hearing #2 Business – Hazardous Substances and Contaminated Land for the Proposed Lower Hutt District Plan (the PDP).
- (2) This report is prepared under section 42A of the Resource Management Act 1991 (the RMA) to:
 - a. Assist the Hearing Panel in making their recommendations on the submissions and further submissions on the Hazardous Substances and Contaminated Land chapters of the PDP, and
 - b. Provide submitters with information on how their submissions/further submissions have been evaluated by the reporting officer(s) for this hearing stream, and their recommendations to the Hearing Panel.
- (3) This report considers submissions/further submissions received by Council in relation to the Hazardous Substances and Contaminated Land chapters, and concludes with recommendations with respect to decisions requested by submitters for the chapter.
- (4) The Hearing Panel may choose to accept or reject the conclusions and recommendations of this report, or may come to different conclusions and make different recommendations, based on the information provided to them, including evidence provided to them by submitters.

2.1 Author

- (5) My name is Hamish Philip Joseph Wesney. I am a Consultant Planner at Boffa Miskell, who is assisting Hutt City Council (HCC) with the District Plan Review/PDP. My role with the District Plan Review/PDP has been assisting with the review and preparation of specific chapters, including the Hazardous Substances and Contaminated Land chapters. Also, during 2019 – 2021, I had a part-time secondment to the HCC Policy Planning Team, assisting with the initial scoping and work programme for the District Plan Review.

- (6) I hold the qualification of Bachelor of Resource and Environmental Planning with First Class Honours from Massey University. I am a Full Member of the New Zealand Planning Institute.
- (7) I have approximately 25 years' experience in planning and resource management, working for both a local authority and a consultancy. For the first four years I was employed as a planner with the Horowhenua District Council, undertaking a variety of planning tasks, including processing numerous land use and subdivision resource consent applications and alterations and outline plans for designations. For the past 21 years, I have been a consulting planner, and have been involved in advising a wide range of clients, including local authorities, corporate entities, central government, and individuals on various projects. In particular, I have been involved in reviewing and drafting a number of district plans including the Wairarapa Combined District Plan, New Plymouth District Plan, Horowhenua District Plan, and South Taranaki District Plan.
- (8) Although this is a Council hearing, I have read the Code of Conduct for Expert Witnesses in the Environment Court Practice Note 2023. I have complied with the Code of Conduct when preparing my written report and I agree to comply with it when I give any oral evidence.
- (9) Other than where I state that I am relying on the advice of another person, this evidence is within my area of expertise. I have not omitted to consider material facts known to me that might alter or detract from the opinions that I express.
- (10) Any data, information, facts, and assumptions I have considered in forming my opinions are set out in the part of the evidence in which I express my opinion. Where I have set out opinions in my evidence, I have given reasons for those opinions.

2.2 Supporting evidence

- (11) Other than the s32 evaluation reports for this chapter, there are no additional supporting documents or evidence for this report.

2.3 Abbreviations

Table 1 Abbreviations of terms and submitter names

Abbreviation	For
Act	Resource Management Act 1991
FENZ	Fire and Emergency New Zealand
GWRC or WRC	Wellington Regional Council (Greater Wellington)
HCC	Hutt City Council
HIPAP	New South Wales Hazardous Industry Planning Advisory Papers
MoE	Ministry of Education - Te Tāhuhu o Te Mātauranga
NES-CS	National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health
NRP	Natural Resources Plan for the Wellington Region
PDP	Proposed Lower Hutt District Plan
RMA	Resource Management Act 1991
SHF	Significant hazardous facility
The Fuel Companies	The Fuel Companies (BP, Mobil and Z Energy)

2.4 Procedural issues

2.4.1 Conferencing and minutes

- (12) The reporting officer for the Industrial Zones and Seaview Marina Zone topic, Stephen Davis, and I met with representatives of two submitters, Seaview Marina Ltd (343) and the Fuel Companies (471), on 9 April 2026, to discuss and clarify issues relating their submissions on the Seaview Marina Zone and

Hazardous Substances chapters. For most matters raised in submissions on the Seaview Marina Zone, these are the only two submitters.

- (13) No joint position on any issue was reached between the submitters or between any submitter and the reporting officers.

2.5 Relevance of PDP exemption for the Hazardous Substances and Contaminated Land chapters

- (14) I have reviewed the exemption application and Minister's approval which fully encompasses the Hazardous Substances and Contaminated Land chapters. I have identified a few minor matters in evaluating submissions on these chapters that raise integration and consequential amendments arising from the exemption. I have addressed these matters in the relevant submission points below.

3 Hazardous Substances and Contaminated Land

3.1 Chapter Summary – Hazardous Substances

- (15) The Hazardous Substances chapter sets objectives, policies and rules to manage the residual risks to people, communities and the environment from activities involving hazardous substances, and to address potential reverse sensitivity arising from land use incompatibility.
- (16) The chapter includes two objectives:
- **HS-01:** People, communities and the environment are protected from the unacceptable residual risk of facilities and activities involving hazardous substances; and
 - **HS-02:** Activities sensitive to hazardous substance risks are located to avoid exposure to unacceptable residual risk and to avoid compromising the operation of existing significant hazardous facilities.
- (17) These objectives are implemented through policies that manage the location and operation of hazardous facilities, identify areas exposed to unacceptable residual risk, and direct sensitive activities away from those areas.
- (18) The chapter includes rules requiring resource consent for new and expanded significant hazardous facilities, and for new activities sensitive to hazardous substance risks within mapped Risk Management Overlays.
- (19) The Hazardous Substances chapter focuses on managing residual risk under the Resource Management Act, and does not duplicate controls provided by other legislation and regulations relating to hazardous substances.

3.2 Chapter Summary – Contaminated Land

- (20) The Contaminated Land chapter sets an objective and policies in relation to contaminated and potentially contaminated land.

- (21) The sole objective (CL-O1) is:
- Contaminated and potentially contaminated land is safe for its intended use.*
- (22) This objective is implemented by:
- Policy CL-P1: Identification of contaminated and potentially contaminated land,
 - Policy CL-P2: Management of contaminated land, and
 - Policy CL-P3: Benefit of remediating contaminated land.
- (23) The chapter does not include any rules. The regulations associated with this chapter are provided through the *Resource Management (National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health) Regulations 2011*.

3.3 Statutory and Policy Context

- (24) The Section 32 evaluation report for the Hazardous Substances and Contaminated Land chapters outline the statutory and policy context for the chapter.
- (25) In summary, both chapters relate to the management of risks to human health and the environment arising from the use, storage and legacy of hazardous substances, within the functions of territorial authorities under the RMA.
- (26) While hazardous substances and contaminated land are subject to extensive regulation under other legislation and regional planning instruments, district plans retain a role in managing land use effects, including location, land use compatibility, and risks not otherwise addressed through national or regional controls.

3.3.1 Resource Management Act

- (27) Section 5 of the RMA requires the sustainable management of natural and physical resources, including managing the use and development of land in a way that enables people and communities to provide for their wellbeing while safeguarding the life-supporting capacity of air, water and soil, and avoiding,

remediating or mitigating adverse effects. This overall purpose is relevant to both hazardous substances and contaminated land.

- (28) Relevant matters under section 6 of the RMA include the protection of sensitive environments, cultural values and the management of significant risks from natural hazards, all of which may be affected by hazardous substances or contaminated land. Relevant section 7 matters include the efficient use and development of resources, intrinsic values of ecosystems, and maintenance and enhancement of environmental quality.
- (29) For contaminated land, section 31(1)(b)(iia) of the RMA explicitly provides territorial authorities with the function of controlling the effects of the use, development or protection of land for the purpose of preventing or mitigating adverse effects associated with contaminated land.
- (30) For hazardous substances, amendments to the RMA in 2017 removed the former explicit function requiring councils to control the use, storage, transport and disposal of hazardous substances, to avoid duplication with other legislation. Territorial authorities nevertheless retain broad powers to manage land use effects under section 31 and to achieve integrated management of natural and physical resources.

3.3.2 Other Legislation and Regulation

- (31) The use, storage and handling of hazardous substances is primarily regulated under the Hazardous Substances and New Organisms Act 1996 and the Health and Safety at Work Act 2015, including regulations for hazardous substances and major hazard facilities administered by the Environmental Protection Authority and WorkSafe New Zealand.
- (32) For contaminated land, the Resource Management (National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health) Regulations 2011 (NES-CS) provide nationally consistent controls on the disturbance, subdivision and change of use of land where soils may be contaminated. The NES-CS largely determines activity status and assessment pathways, limiting the scope for district plan rules in this area.

3.3.3 National Planning Standards

- (33) The National Planning Standards require district plans to address hazardous substances and contaminated land, where relevant, within district-wide “Hazards and Risks” chapters using a standardised structure, format and terminology.
- (34) The Hazardous Substances and Contaminated Land chapters of the PDP have been structured and named to give effect to these standards and to provide clarity and consistency for plan users.

3.3.4 Regional Policy Statement and Regional Plans

- (35) The Regional Policy Statement for the Wellington Region identifies responsibilities for land use controls relating to hazardous substances and contaminated land, including the role of district plans in managing land use compatibility and adverse effects on people and the environment.
- (36) Objectives, policies and rules of the Natural Resources Plan for the Wellington Region (NRP) administered by Greater Wellington Regional Council seek to avoid the creation of contaminated land and to manage the discharge of hazardous substances to land, air and water to protect environmental values.
- (37) The PDP provisions have been developed to avoid duplication and inconsistency with these regional controls.

3.3.5 Implications for the Proposed District Plan

- (38) The statutory and policy context confirms that:
- district plan provisions for contaminated land should support and complement the National Environmental Standards for Assessing and Managing Contaminants in Soil to Protect Human Health (NES-CS), rather than duplicate it; and
 - district plan provisions for hazardous substances should focus on managing residual land use risks, land use compatibility and reverse sensitivity that are not addressed by other legislation.
- (39) The Hazardous Substances and Contaminated Land chapters of the PDP have been drafted to give effect to this context by focusing on outcomes within

Council's functions under the RMA, while recognising the primary role of other regulatory regimes.

3.4 Submissions and further submissions

- (40) Twenty-three submission points are on the Hazardous Substances chapter, from six submitters.
- (41) Eight submission points are on the Contaminated Land chapter, from three submitters.
- (42) In summary, submissions on the Hazardous Substances chapter primarily relate to:
- support for the overall direction of the chapter and its focus on managing residual risk rather than duplicating controls under other legislation;
 - the appropriateness and clarity of the objectives, in particular the framing of “unacceptable residual risk” and reverse sensitivity;
 - the scope and wording of policies addressing the location of significant hazardous facilities and activities sensitive to hazardous substance risks;
 - the activity status and scope of the rules for new and expanded significant hazardous facilities; and
 - the mapping, methodology and application of the Hazardous Substances Risk Management Overlay.
- (43) Submissions on the Contaminated Land chapter are more limited in number and scope, and generally focus on clarifying the wording of the objective and policies and their relationship with the NES-CS.
- (44) Further submissions were received in relation to both chapters. These generally either support or oppose specific submission points, rather than introducing new issues. In particular, a number of further submissions address proposed amendments to hazardous substances provisions advanced by the Fuel Companies (471), including matters relating to residual risk, policy wording, rules affecting significant hazardous facilities, and the Risk Management Overlay.

(45) In addition to submission points directly relating to the Hazardous Substances and Contaminated Land chapters, submissions were also received on definitions and district-wide terms that are relevant to the interpretation and application of these chapters (including terms such as *activities sensitive to hazardous substance risks*, *residual risk*, *reverse sensitivity*, and *significant hazardous facility*). Where those definitions are integral to the operation of the Hazardous Substances and Contaminated Land provisions, they are addressed in this report. Submissions on definitions that have wider application across the Proposed District Plan are addressed in other Section 42A reports where more appropriate.

3.5 Key resource management issues

(46) Submissions on the Hazardous Substances and Contaminated Land chapters raise a limited number of key resource management issues, reflecting general support for the overall direction of both chapters.

(47) For the Hazardous Substances chapter, the primary issues raised relate to:

- the appropriate role of the District Plan in managing hazardous substances, particularly the need to focus on residual risk and avoid duplication with other legislation and regulations;
- how unacceptable residual risk is defined, assessed and managed, including the use of quantitative risk assessment and risk thresholds;
- the balance between protecting people and sensitive activities from unacceptable risk, and protecting existing significant hazardous facilities from reverse sensitivity; and
- the clarity, scope and proportionality of the rules and the Hazardous Substances Risk Management Overlay, including certainty for landowners and operators.

(48) For the Contaminated Land chapter, submissions raise more narrowly focussed issues, primarily relating to:

- clarification of the wording and intent of the objective and policies; and
- the relationship between the District Plan provisions and the NES-CS, including ensuring the chapter supports, rather than duplicates, the NES-CS framework.

- (49) Across both chapters, submissions also raise issues regarding the clarity and consistency of key definitions that are central to the interpretation and implementation of the provisions.
- (50) These issues are addressed in detail in the following section of this report, which evaluates the submissions and further submissions and provides recommendations to the Hearings Panel.

3.6 Discussion of submissions and recommendations

- (51) This section is a discussion of the submission points on the Hazardous Substances and Contaminated Land chapters, with my recommendations on decisions requested by submitters on this topic.

3.6.1 Hazardous Substances chapter

Whole chapter – Hazardous Substances chapter

Submissions

- (52) Clarus (474.59) supports the Hazardous Substances chapter.
- (53) The Fuel Companies (471.158) support the Hazardous Substances chapter in part, and request that references to “sensitive environments” be replaced with the defined term “specified overlay”.

Assessment

- (54) The Hazardous Substances chapter provides a district-wide policy and rule framework to manage the residual risks associated with hazardous substances, particularly in relation to land-use compatibility, cumulative effects, and reverse sensitivity. The chapter is intended to work alongside zoning provisions and national regulatory regimes.
- (55) Clarus supports the Hazardous Substances chapter as a whole. This support is noted.
- (56) The Fuel Companies support the chapter in part but seek an amendment to replace references to “sensitive environments” with the defined term

“specified overlay”. The intent of this submission is understood as seeking greater precision and consistency in terminology.

- (57) However, the amendment sought is not supported. References to sensitive environments within the Hazardous Substances chapter are used deliberately to capture a broader range of environments that may be vulnerable to hazardous substance effects, including natural features, waterbodies, ecological areas, and other values that may not always be spatially mapped through overlays. In contrast, the term specified overlay is narrower and focuses on mapped overlays only.
- (58) Limiting references to “specified overlay” would risk excluding sensitive environments that are not currently identified through an overlay but nevertheless warrant consideration when assessing hazardous substance risks. This would reduce the effectiveness and flexibility of the chapter in managing adverse effects.
- (59) It is also noted that the definition of specified overlay may be deleted as a result of the overlays listed in this definition being withdrawn from the PDP to comply with the Minister’s exemption. Substituting references to a term that may not be retained in the plan would create uncertainty and could require further consequential amendments.
- (60) For these reasons, retaining the broader term sensitive environments is considered appropriate and consistent with the precautionary, effects-based approach of the Hazardous Substances chapter.

Recommendation

- (61) Accept the submission by Clarus (474.59) supporting the Hazardous Substances chapter.
- (62) Reject the submission by the Fuel Companies (471.158) seeking to replace references to “sensitive environments” with “specified overlay”.

Section 32AA Assessment

- (63) As I am not recommending any amendments in response to the whole of chapter submissions, a section 32AA assessment is not required.

Introduction – Hazardous Substances chapter

Submissions

(64) The Fuel Companies (471.159) support the Introduction of the Hazardous Substances chapter in part, and request the following amendments:

"The purpose of the Hazardous Substances chapter is to protect people, communities and the environment from the residual risk of facilities and activities involving the manufacture, use, storage, transportation or disposal of hazardous substances, including significant hazardous facilities. This chapter seeks to manage:

- 1. Reverse sensitivity effects between existing lawfully established significant hazardous facilities and new or intensified activities sensitive to hazardous substance risks,*
- 2. The residual risk from significant hazardous facilities to public safety, for example, risks to the public beyond the site boundary, and*
- 3. Management of cumulative effects of multiple significant hazardous facilities near each other.*

...

The District Plan manages only the residual risk and cumulative risk to the health and wellbeing of people and communities, and adverse effects on ~~sensitive environments~~ a specified overlay after non-District Plan statutory rules and controls, including any subordinate instruments, in place with respect to hazardous substances have been complied with.

..."

(65) Although not shown as new text (red underline) in their submission, The Fuel Companies also included the following additional paragraph in the relief sought section of their submission:

For some significant hazardous facilities, as well as for the Hutt City fuel transmission pipeline, where risks have been quantified through quantitative risk assessment (QRA) work, residual risk is mapped in the District Plan as a Hazardous Substances Risk Management Overlay and the Hutt City fuel transmission pipeline corridor. In these locations, activities sensitive to hazardous substances and temporary activities are managed to avoid unacceptable risk.

(66) In the reasons for this submission point, the submitter states there is no explanation anywhere in the plan regarding the 'Hazardous Substances Risk Management Overlay', and considers an explanation regarding this overlay

would help plan users understand its context and importance. In addition, the Fuel Companies seek to include similar protection to the Hutt City fuel transmission pipeline by way of a pipeline corridor in which sensitive activities and temporary activities are managed. Additional wording is proposed for the introduction to address both the Hazardous Substances Risk Management Overlay and the proposed pipeline corridor.

- (67) Seaview Marina Ltd (F14.16) made a further submission opposing the submission point of the Fuel Companies (471.159).

Assessment

- (68) I agree that the addition of the term “intensified” is appropriate in the Introduction. Intensification of existing activities sensitive to hazardous substance risks (for example, increased occupancy or scale of use) can materially increase exposure to hazardous events and elevate risk to an unacceptable level.
- (69) I acknowledge the concerns raised by Seaview Marina Ltd, that the changes proposed by the Fuel Companies could limit changes to existing lawfully established activities. I agree that care is required to avoid unintended consequences for existing lawfully established activities. However, the inclusion of “intensified” does not alter the legal status of existing activities. Rather, it clarifies that where an activity proposes to intensify in a way that increases exposure to unacceptable residual risk, it is appropriate for that change to be assessed. This approach is consistent with established land-use planning principles and does not of itself constrain existing lawful operations.
- (70) I also agree with the second amendment sought by the Fuel Companies to add “significant hazardous facilities” to clarify and confirm the source of the residual risk.
- (71) In relation to the additional paragraph included by the Fuel Companies in the relief sought section of their submission (but not shown as tracked text), I am satisfied that, when the submission is read as a whole, the intent and outcome sought are clear. Accordingly, I consider that the requested amendment is within scope and should be assessed on its merits.
- (72) I agree in principle that an explanatory statement in the Introduction regarding the Hazardous Substances Risk Management Overlay would assist plan users to understand its function, context and importance. In my view, a

high-level explanation that the overlay identifies areas where residual risk from certain facilities has been quantified and where sensitive activities are subject to additional management would improve plan legibility and usability.

- (73) However, I do not support the inclusion, within the Introduction, of reference to a Hutt City fuel transmission pipeline corridor for reasons stated later in this report in relation to the pipeline corridor overall (see Section 3.6.4 of this report).
- (74) Also, I do not support the proposed replacement of “sensitive environments” with “specified overlay” in the Introduction, for reasons outlined later in this report.
- (75) Lastly, the s42A Report for Hearing Stream 1 recommended amending all references in the PDP to “reverse sensitivity effects” to “reverse sensitivity”. Accordingly, I have shown this recommended amendment in the provision wording below.

Recommendation

- (76) That the submission from the Fuel Companies (471.159) is accepted in part, and the Introduction text in the Hazardous Substances chapter is amended as shown below.
1. Reverse sensitivity ~~effects~~ between existing lawfully established significant hazardous facilities and new or intensified activities sensitive to hazardous substance risks,
 2. The residual risk from significant hazardous facilities to public safety, for example, risks to the public beyond the site boundary, and
- (77) I also recommend the addition of the following paragraph:
- For some significant hazardous facilities, where risks have been quantified through quantitative risk assessment work, residual risk is mapped in the District Plan as a Hazardous Substances Risk Management Overlay. In these locations, activities sensitive to hazardous substance risks are managed to avoid unacceptable risk.
- (78) The further submission from Seaview Marina Ltd is recommended to be rejected.

- (79) The recommended amendments to the Introduction of the Hazardous Substances chapter are the most appropriate way to achieve the purpose of the RMA as they improve clarity and reduce uncertainty for plan users by clearly articulating the scope of residual risk management, including the role of intensified activities and the source of risk from significant hazardous facilities. Providing a high-level explanation of the Hazardous Substances Risk Management Overlay improves plan legibility and understanding, reducing the likelihood of misinterpretation, inefficient consent processing, or unnecessary costs for applicants. The amendments retain the substantive intent of the notified provisions, avoid unnecessary duplication or expansion of regulatory scope, and support more consistent and efficient decision-making, thereby improving the overall effectiveness and workability of the Proposed District Plan in accordance with Part 2 of the RMA.

HS-O1 (Protection from residual risk)

Submissions

- (80) The Fuel Companies (471.160) support Objective HS-O1.

Assessment

- (81) The support for Objective HS-O1 is noted.

Recommendation

- (82) Accept the submission from the Fuel Companies.

HS-O2 (Protection of existing significant hazardous facilities)

Submissions

- (83) Enviro NZ (323.33), the Ministry of Education (399.30) and the Fuel Companies (471.161) support Objective HS-O2.

- (84) Seaview Marina Ltd (F14.17) made a further submission opposing the submission point of the Fuel Companies (471.161).

Assessment

- (85) Support for Objective HS-O2 from Enviro NZ, the Ministry of Education and the Fuel Companies is noted.

- (86) Although the Fuel Companies' submission (471.161) states that Objective HS-O2 be retained as notified, a full reading of the relief sought and reasons sections makes it clear that the Fuel Companies seek an amendment to also recognise the need to avoid activities sensitive to hazardous substance risks locating in close proximity to the 'Hutt City fuel transmission pipeline'. While this addition is not shown as tracked text in the Fuel Companies submission, I am satisfied that the intent of the amendment sought is clear and that there is no scope issue.
- (87) The Fuel Companies' rationale is that, although the fuel transmission pipeline does not meet the definition of a *significant hazardous facility*, quantitative risk assessment work has demonstrated that it generates residual risk and associated reverse sensitivity issues where risk-sensitive activities locate in close proximity to the pipeline.
- (88) Seaview Marina Ltd, in its further submission (F14.17), opposes this amendment. Their concern is that introducing reference to the fuel transmission pipeline at the objective level would effectively afford the pipeline similar protection to significant hazardous facilities, potentially resulting in additional and unforeseen restrictions on a wide range of properties. Seaview Marina also notes that the pipeline is not subject to the same regulatory provisions that apply to significant hazardous facilities, and that this could impose constraints on Seaview Marina Zone land not currently covered by the Hazardous Substances Risk Management Overlay.
- (89) As discussed later in this report (see Section 3.6.4 of this report), there are substantive matters to consider regarding whether and how the fuel transmission pipeline should be managed through district plan provisions, including the appropriateness of overlays, corridors, or targeted policies and rules for linear infrastructure. For the reasons set out later in the report, I do not recommend adding reference to the fuel transmission pipeline within Objective HS-O2.
- (90) Overall, I consider that Objective HS-O2, as notified, remains appropriate, effective and internally consistent with the Hazardous Substances chapter.

Recommendation

- (91) Retain Objective HS-O2 as notified.

Section 32AA Assessment

- (92) As I am not recommending any amendments to HS-O2, a section 32AA assessment is not required.

HS-P1 (Location of hazardous facilities)

Submissions

- (93) The Natural Hazards Commission (327.75) supports Policy HS-P1.
- (94) Enviro NZ (323.34) supports Policy HS-P1 in part, and requests the following amendments to point 3 of the policy:

3. Locating significant hazardous facilities outside of zones permitting activities sensitive to hazardous substance risks ~~sensitive environments~~,

- (95) The Fuel Companies (471.162) supports Policy HS-P1 in part, and request the following amendments:

"Ensure significant hazardous facilities ~~and activities~~ involving the manufacture, use, storage, transportation, or disposal of hazardous substances, ~~including significant hazardous facilities~~, are appropriately located and managed by:

1. Avoiding unacceptable residual risk to human health, people, and communities as determined through the use of a Quantitative Risk Assessment or other acceptable risk assessment process ~~for the proposed activity~~, having regard to including its site characteristics and any cumulative risk from other nearby hazardous facilities.

~~2. Recognising the purpose of the zone in which the proposed activity is located, and the sensitivity of the activities that are enabled in that zone;~~

3. Locating new significant hazardous facilities outside of ~~sensitive environments~~ a specified overlay, and

..."

- (96) Seaview Marina Ltd (F14.18) made a further submission opposing the submission point of the Fuel Companies (471.162).

Assessment

- (97) The support for Policy HS-P1 from the Natural Hazards Commission is noted.
- (98) Policy HS-P1 provides direction on the appropriate location and management of significant hazardous facilities, consistent with the objectives of the Hazardous Substances chapter and the District Plan's role in managing

residual land-use risk and reverse sensitivity. The overall structure and intent of the policy are considered appropriate.

- (99) I agree in principle with elements of the Fuel Companies' submission seeking to amend the chapeau and clarify clause 1. Amending the chapeau to specifically and only refer to 'significant hazardous facilities' is consistent with the overall approach in the PDP. Also, recognising that unacceptable residual risk may be determined through a Quantitative Risk Assessment 'or other acceptable risk assessment process, having regard to site characteristics and cumulative risk from nearby hazardous facilities', better reflects established practice and provides appropriate flexibility while maintaining a clear outcomes focus.
- (100) In relation to clauses 2 and 3, I agree with the intent of Enviro NZ's requested amendment to clause 3 to better link the location of significant hazardous facilities to land-use sensitivity and zone outcomes. However, I consider that this linkage is already adequately provided for in clause 2. For this reason, I do not support deleting clause 2, as requested by the Fuel Companies.
- (101) I also do not support the Fuel Companies' request to replace references to "sensitive environments" with "a specified overlay". As discussed in paragraph (57), reliance on "specified overlay" terminology is unnecessarily restrictive and may exclude locations where land-use sensitivity exists but is not captured by an overlay. Retaining broader locational language better supports effective risk management.
- (102) I support the clarification sought by the Fuel Companies that clause 3 applies to new significant hazardous facilities. This avoids unintended implications for existing lawfully established facilities and is consistent with the purpose of the policy.
- (103) The concerns raised by Seaview Marina Ltd are acknowledged, particularly in relation to the potential for unintended constraints on surrounding land. The amendments recommended above are targeted and clarifying in nature, and do not introduce new controls beyond those anticipated by the notified policy framework.
- (104) Subject to the changes outlined above, Policy HS-P1 remains appropriate, effective and internally consistent with the Hazardous Substances chapter.

Recommendation

(105) The Natural Hazards Commission (327.75), Fuel Companies (471.162) and Enviro NZ (323.34) submissions and Seaview Marina Ltd further submission are accepted in part and that Policy HS-P1 is amended as follows:

HS-P1 Location of significant hazardous facilities

Ensure significant hazardous facilities ~~and activities~~ involving the manufacture, use, storage, transportation, or disposal of hazardous substances, ~~including significant hazardous facilities~~, are appropriately located and managed by:

1. Avoiding unacceptable residual risk to human health, people, and communities as determined through the use of a Quantitative Risk Assessment or other acceptable risk assessment process for the proposed activity, having regard to including its site characteristics and any cumulative risk from other nearby hazardous facilities,

...

3. Locating new significant hazardous facilities outside of sensitive environments, and

Section 32AA Assessment

(106) The recommended amendments to Policy HS-P1 are the most appropriate way to achieve the objectives of the PDP as they clarify the policy's focus on significant hazardous facilities, improve alignment with risk-based planning practice, and reduce uncertainty for plan users. Clarifying how unacceptable residual risk may be assessed improves policy precision without altering its substantive intent. Overall, the amendments improve the efficiency and effectiveness of the policy by providing clearer guidance for applicants and decision-makers, supporting consistent implementation while avoiding unnecessary compliance costs or duplication of regulation.

HS-P2 (Identify areas of unacceptable residual risk)

Submissions

(107) The Fuel Companies (471.163) support Policy HS-P2 in part, and request the following amendments:

Amend Policy HS-P2 to clarify the type of activities that are considered to be subject to an unacceptable level of risk within the 1×10^{-6} contour around a SHF.

This could be by making changes along the following lines:

Identify areas where activities are exposed to an unacceptable level of residual risk from existing significant hazardous facilities based on a risk threshold of 1×10^{-6} ; and map these areas using the Hazardous Substances Risk Management Overlay or a pipeline corridor overlay.

- (108) Seaview Marina Ltd (F14.19) made a further submission opposing the submission point of the Fuel Companies (471.163).

Assessment

- (109) Policy HS-P2 directs the identification of areas where there is an unacceptable level of residual risk from existing significant hazardous facilities. I agree with the Fuel Companies that adding reference to 'activities' clarifies the meaning and application of this policy as it is activities which are exposed to this risk.
- (110) However, I do not support deleting the measure of what is an unacceptable level of risk – i.e. the threshold of 1×10^{-6} . Stating the threshold in the policy provides certainty on the level of unacceptable risk in the context of existing significant hazardous facilities in Lower Hutt. I accept that this threshold would not apply to qualitative risk assessments. However, I consider that stating this threshold does not preclude qualitative risk assessments for the reasons stated in paragraph(99) in relation to Policy HS-P1.
- (111) In relation to adding reference to fuel transmission pipeline, for the reasons discussed later in this report (see Section 3.6.4 of this report), I do not recommend adding reference to the fuel transmission pipeline within Policy HS-P2.

Recommendation

- (112) The Fuel Companies submissions and Seaview Marina Ltd further submission are accepted in part and that Policy HS-P2 is amended as recommended below:

Identify areas where activities are exposed to an unacceptable level of residual risk from existing significant hazardous facilities based on a risk threshold of 1×10^{-6} , and map these areas using the Hazardous Substances Risk Management Overlay.

Section 32AA Assessment

- (113) The recommended amendment to Policy HS-P2 is the most appropriate way to achieve the objectives of PDP as it improves clarity and certainty by explicitly confirming that it is activities which are exposed to unacceptable residual risk from existing significant hazardous facilities.

HS-P3 (Location of activities sensitive to hazardous substance risks)

Submissions

- (114) Enviro NZ (323.35) and the Ministry of Education (399.31) support Policy HS-P3.
- (115) The Fuel Companies (471.164) support Policy HS-P3 in part, and request the following amendment:

Require activities sensitive to hazardous substance risks to be adequately separated from significant hazardous facilities ~~to~~ by:

- 1. ~~Avoiding~~ new activities sensitive to hazardous substance risks, and the intensification or expansion of existing activities sensitive to hazardous substance risks, locating in areas exposed to unacceptable residual risks from existing significant hazardous facilities, and*
- 2. ~~Avoiding~~ ~~Minimise~~ reverse sensitivity effects on existing significant hazardous facilities.*

- (116) Seaview Marina Ltd (F14.20) made a further submission opposing the submission point of the Fuel Companies (471.164).

Assessment

- (117) The support from two submitters for this policy is noted.
- (118) In respect of the first matter of adding reference to intensification and expansion of existing activities sensitive to hazardous substance risks, I note my earlier assessment and recommendation in the introduction (refer to paragraph (68)) supported the inclusion of explicit reference to the intensification and expansion of existing sensitive activities. For the same

reasons as stated above for the objective, I consider Policy HS-P3 should also be amended to include intensification of existing activities to address incremental increases in exposure to risk. This amendment is therefore supported.

(119) In relation to reverse sensitivity, the requested change from “minimise” to “avoid” is not supported. Reverse sensitivity associated with significant hazardous facilities are inherently context-specific and are commonly managed through separation distances, site design, consent conditions, and risk mitigation measures. A requirement to avoid all reverse sensitivity issues would impose an absolute policy test that would significantly constrain otherwise appropriate development, particularly in industrial, port-related and mixed-use environments where hazardous facilities are long-established and anticipated to remain. I consider “minimise” is the more appropriate directive, as it aligns with a risk-based planning approach, allows for effective mitigation where residual risk is acceptable, and avoids unnecessarily restricting land use or shifting all future land-use constraints onto sensitive activities regardless of site-specific circumstances. The use of “avoid” is generally reserved for effects that are incapable of mitigation, which is not considered to be the case for reverse sensitivity issues in all instances.

(120) Overall, I consider it appropriate to accept the requested amendment relating to intensification and expansion of sensitive activities, but to retain the notified approach of minimising, rather than avoiding, reverse sensitivity issues.

Lastly, the s42A Report for Hearing Stream 1 recommended amending all references in the PDP to “reverse sensitivity effects” to “reverse sensitivity”. Accordingly, I have shown this recommended amendment in the provision wording below. Recommendation

(121) The Enviro NZ (323.35), Ministry of Education (399.31) and Fuel Companies (471.164) submissions and Seaview Marina Ltd (F14.20) further submission are accepted in part and that Policy HS-P3 is amended as recommended below:

Require activities sensitive to hazardous substance risks to be adequately separated from significant hazardous facilities ~~to~~ by:

1. Avoiding new activities sensitive to hazardous substance risks, and the intensification or expansion of existing activities sensitive to hazardous substance risks, locating in areas exposed to unacceptable residual risks from

existing significant hazardous facilities, and

*2. Minimise reverse sensitivity **effects** on existing significant hazardous facilities.*

Section 32AA Assessment

- (122) The recommended amendments to Policy HS-P3 are the most appropriate way to achieve the objectives of the PDP, having regard to efficiency and effectiveness. The amendments clarify that both new activities and the intensification or expansion of existing sensitive activities are managed where they would increase exposure to unacceptable residual risk, improving risk management outcomes and protecting people and communities from avoidable harm. Key benefits include improved public safety, clearer expectations for applicants and decision-makers, and reduced future conflict and reverse sensitivity.
- (123) The costs of the amendments are limited and targeted. Some applicants proposing expansion or intensification of sensitive activities near significant hazardous facilities may incur additional assessment or design costs where development would materially increase exposure. These costs are borne by those whose proposals introduce additional risk and are proportionate to the potential effects. There may also be minor additional assessment effort for Council; however, improved policy clarity is expected to reduce uncertainty, streamline decision-making, and avoid inefficiency over time. On balance, the benefits of improved certainty, reduced risk to people, and more effective long-term land-use management outweigh the limited compliance and administrative costs. The amendments therefore represent an efficient and effective means of achieving the objectives of the Hazardous Substances chapter in accordance with Part 2 of the RMA.

HS-R1 (Additions or alterations to existing significant hazardous facilities)

Submissions

- (124) FENZ (374.36) and the Fuel Companies (471.165) support Rule HS-R1 in part.
- (125) FENZ request the following amendment:

1. Activity status: Permitted

Where:

...

c. Where the volume of hazardous substances on-site is to be increased under b., the facility has a proportionate increase in spill containment volume and fire prevention materials.

(126) The Fuel Companies request the following amendment:

HS-R1 Additions, or alterations or new buildings or structures at to existing significant hazardous facilities

All Zones

1. Activity status: Permitted

Where:

a. The activity does not increase ~~change~~ the risk profile of the significant hazardous facility, as measured from 6 February 2025, and

b. There is no more than a 10% increase in the volume of hazardous substances manufactured, used, stored, transported, or disposed of, as measured from 6 February 2025.

All zones

1. Activity status: Restricted discretionary Where:

a. Compliance is not achieved with HS-R1.1 Matters of discretion are restricted to:

...

4. Proximity to ~~Separation distances between~~ activities sensitive to hazardous substance risks, ~~sensitive environments~~ a specified overlay, and adjacent hazardous facilities and/or activities, including the number of people potentially at risk from the proposed expansion or upgrading to the facility.

...

(127) Winstone Wallboards Ltd (31.29) requests clarification of how risk profile is determined and what change in risk profile would trigger a resource consent under Rule HS-R1. Alternatively, they request that conditions of the rule are deleted so activities are always permitted under this rule.

Assessment

- (128) Rule HS-R1 provides for additions and alterations at existing significant hazardous facilities. The rule recognises that significant hazardous facilities are established activities and enables them to maintain, upgrade, or make changes as a permitted activity, while requiring resource consent where changes have the potential to materially alter residual risk or land-use effects.
- (129) FENZ seeks an amendment to the permitted activity standards to require that, where hazardous substance volumes are increased, there is a proportionate increase in spill containment capacity and fire prevention materials.
- (130) While the intent of this submission is supported in that spill containment and fire prevention is important, the relief sought is not considered appropriate in the district plan framework. I understand the management of hazardous substance volumes, spill containment systems, and fire prevention measures is regulated under the Health and Safety at Work Act 2015, the Health and Safety at Work (Hazardous Substances) Regulations 2017, and, where applicable, the Health and Safety at Work (Major Hazard Facilities) Regulations 2016. These regimes place direct responsibility on facility operators to ensure containment, fire-fighting capability, and emergency response measures remain proportionate to the type and volume of hazardous substances on site, with oversight by WorkSafe New Zealand and Fire and Emergency New Zealand. As the approach in the Proposed District Plan is not to duplicate other regulations, the relief sought by FENZ is not supported.
- (131) The Fuel Companies seek an amendment to HS-R1 to expressly include “new buildings and structures” within the scope of the rule for existing significant hazardous facilities (SHF). This relief is supported. As notified, HS-R1 refers to additions or alterations but does not explicitly reference new buildings or structures, which creates ambiguity as to whether routine operational development within an established SHF site—such as replacement buildings, ancillary structures, or upgraded containment infrastructure—is captured by the rule. Including “new buildings and structures” would improve clarity and certainty for plan users, and better reflect the operational realities of established hazardous facilities, without altering the underlying risk-based intent of the rule. Any new building or structure would remain subject to the

existing permitted activity thresholds and escalation to restricted discretionary consent where those standards are not met, ensuring that changes which may materially affect residual risk or land-use effects continue to be appropriately assessed.

- (132) I also support the request by the Fuel Companies to replace “change” with “increase” as that wording better expresses the intent of the standard. A decrease in risk would be permitted which is consistent with the policy direction.
- (133) The proposed amendments to the restricted discretionary activity matters are supported to the extent that they clarify the assessment framework by focusing on the proximity to activities sensitive to hazardous substance risks, rather than explicitly requiring separation distances. This approach better reflects a risk-based and effects-focused assessment, recognising that fixed separation distances may not be necessary or appropriate in all cases and that proximity should be considered alongside the nature of the activity, site layout, design, mitigation measures, and the number of people potentially at risk.
- (134) Replacing ‘sensitive environments’ with ‘specified overlays’ is not supported for the reasons stated earlier in this report on the same matters.
- (135) Winstone Wallboards Ltd seeks clarification regarding how a change in risk profile is determined or, alternatively, removal of the rule conditions so that all additions or alterations are permitted. As evaluated earlier in this report in relation to Policy HS-P1, a risk assessment would be required to determine if there is a change/increase in the risk profile. The nature and scale of the proposed addition, alteration or new building/structure, including the hazardous substances involved, would influence this assessment. For example, a small addition involving the storage of hazardous substances may require a statement or assessment from the hazardous substances supplier or storage supplier on the risk profile change. Alternatively, a larger addition involving the storage of hazardous substances may warrant an updated or new risk assessment to be prepared to demonstrate whether the risk profile is increased.
- (136) Based on this clarification, the submission is accepted in part. The alternative of deleting the conditions is not supported, as the permitted activity framework appropriately balances enabling established SHFs with the need to

ensure that changes which may increase residual risk are subject to assessment.

- (137) Overall, HS-R1 appropriately relies on national hazardous substances and fire safety legislation to regulate operational safety matters, while using RMA controls to manage land-use effects and residual risk. Submissions are therefore supported only to the extent that they improve clarity and proportionality without duplicating other regulatory regimes.

Recommendation

- (138) Accept the relief sought by The Fuel Companies (471.165) and amend Rule HS-R1 as shown below:

HS-R1 Additions, ~~or~~ alterations or new buildings or structures at to existing significant hazardous facilities

All Zones

1. Activity status: Permitted

Where:

- a. The activity does not increase change the risk profile of the significant hazardous facility, as measured from 6 February 2025, and*
- b. There is no more than a 10% increase in the volume of hazardous substances manufactured, used, stored, transported, or disposed of, as measured from 6 February 2025.*

All zones

1. Activity status: Restricted discretionary Where:

a. Compliance is not achieved with HS-R1.1 Matters of discretion are restricted to:

...

4. Proximity to Separation distances between activities sensitive to hazardous substance risks, sensitive environments, and adjacent hazardous facilities and/or activities, including the number of people potentially at risk from the proposed expansion or upgrading to the facility.

Section 32AA Assessment

- (139) The recommended amendments to Rule HS-R1 are the most appropriate way to achieve the objectives of the PDP as they improve clarity and certainty without altering the substantive regulatory framework. Clarifying that the rule

applies to new buildings and structures at existing significant hazardous facilities reduces interpretation uncertainty and avoids unnecessary consenting costs for low-risk operational changes, benefiting facility operators and decision-makers. Any additional costs incurred are targeted and proportionate, arising only where development has the potential to materially affect surrounding land uses or people. Overall, the amendments improve the efficiency and effectiveness of the rule while maintaining appropriate protection of people and communities in accordance with Part 2 of the RMA.

HS-R2 (New significant hazardous facilities)

Submissions

- (140) Enviro NZ (323.36) and the Natural Hazards Commission (327.76) support Rule HS-R2.
- (141) The Fuel Companies (471.166) support Rule HS-R2.1 in part, and request the following amendment:

HS-R2 New significant hazardous facilities

Heavy Industrial Zone

1. Activity status: Restricted discretionary

Where:

a. Compliance is not achieved with HS-R1.1 Matters of discretion are restricted to:

[...]

3. ~~Proximity to Adequate separation distances between activities sensitive to hazardous substance risks, sensitive environments a specified overlay, and adjacent hazardous facilities and/or activities.~~

[...]

- (142) The Fuel Companies (471.167) also oppose Rule HS-R2.3 in part, and request that it is amended from a non-complying activity to a discretionary activity.

Assessment

- (143) Rule HS-R2 manages the establishment of new significant hazardous facilities and applies a graduated activity status framework depending on location

(zone). The rule directs new significant hazardous facilities towards the Heavy Industrial Zone and requires a higher level of scrutiny on separation distances or other considerations in the matters of discretion.

- (144) Enviro NZ and the Natural Hazards Commission support the rule as notified. Their submissions confirm that the rule appropriately manages residual risk to people, property, and the environment and aligns with a precautionary, risk-based approach. These submissions are noted.
- (145) In terms of the submission from the Fuel Companies, firstly they support Rule HS-R2(1) in part and seek amendments to clarify the restricted discretionary matters on proximity and to not explicitly state adequate separation distances. I support this request as separation distances may not be necessary in all cases for the reasons stated in the evaluation of the same relief in HS-R1. In relation to replacing 'sensitive environments' with 'specified overlays', for the reasons stated in paragraph (57) on the same matter, I do not support this change.
- (146) Secondly, the Fuel Companies oppose Rule HS-R2(3) insofar as it classifies new significant hazardous facilities in certain zones as a non-complying activity, and request that the activity status be reduced to discretionary.
- (147) This relief is not supported. The non-complying activity status applies to circumstances where new significant hazardous facilities are proposed in locations (zones) that are fundamentally inconsistent with the spatial intent of the plan or where the level of residual risk is likely to be high and difficult to mitigate. Retaining a non-complying activity status appropriately signals that such proposals are anticipated to be rare and must meet a robust planning threshold before being approved.
- (148) Changing the activity status to discretionary would materially weaken the policy signal against locating new significant hazardous facilities in inappropriate areas and could undermine the strategic intent to direct such facilities away from sensitive environments and incompatible zones. The non-complying status ensures that effects-based, location-specific considerations are fully tested and that the high potential consequences of new significant hazardous facilities are appropriately recognised in decision-making.

- (149) Overall, HS-R2 appropriately balances enabling industrial activities in suitable locations with protecting people and environments from unacceptable residual risk. The rule structure and activity statuses are considered fit for purpose, subject to minor clarification of assessment matters as sought by the Fuel Companies under HS-R2(1).

Recommendation

- (150) Accept in part the relief sought by Enviro NZ (323.36), Natural Hazards Commission (327.76) and Fuel Companies (471.166) and amend Rule HS-R2 as shown below:

3. ~~Proximity to Adequate separation distances between~~ activities sensitive to hazardous substance risks, sensitive environments, and adjacent hazardous facilities and/or activities.

Section 32AA Assessment

- (151) The recommended amendment to Rule HS-R2 is the most appropriate way to achieve the objectives of the PDP as it improves clarity and workability by focusing assessment on proximity to sensitive activities and adjacent hazardous facilities, rather than prescriptive separation distances. This supports a risk-based, effects-focused approach that allows site-specific context and mitigation to be considered, avoids unnecessary rigidity, and reduces uncertainty and compliance costs for applicants. Any additional assessment effort is proportionate and limited to situations where proximity may result in increased residual risk.

HS-R3 (New activities sensitive to hazardous substance risks within the Hazardous Substances Risk Management Overlay)

Submissions

- (152) Enviro NZ (323.37) supports Rule HS-R3.
- (153) The Fuel Companies (471.168) support Rule HS-R3, and request the following amendment:

HS-R3 New activities sensitive to hazardous substance risks or their expansion or intensification, within the Hazardous Substances Risk

Management Overlay and the Hutt City fuel transmission pipeline corridor

All zones

1. Activity status: Non-complying

- (154) Seaview Marina Ltd (F14.21) made a further submission opposing the submission point of the Fuel Companies (471.168).

Assessment

- (155) Rule HS-R3 as notified manages the establishment of new activities sensitive to hazardous substance risks within the Hazardous Substances Risk Management Overlay, where unacceptable residual risk from existing significant hazardous facilities has been identified. The rule applies a non-complying activity status, reflecting the high potential for adverse health and safety outcomes and reverse sensitivity issues in these locations.
- (156) The support from Enviro NZ for Rule HS-R3 as notified is noted.
- (157) The Fuel Companies support the rule in part and seek amendments to expand its scope to explicitly include the expansion or intensification of existing activities sensitive to hazardous substance risks, and to extend the rule's application to the Hutt City fuel transmission pipeline corridor.
- (158) The inclusion of the fuel transmission pipeline corridor is not supported for the reasons stated later in this report (see Section 3.6.4 of this report).
- (159) In relation to expansion or intensification of existing sensitive activities, the intent of the Fuel Companies' submission is supported in principle. Allowing the expansion or intensification of sensitive activities within areas of unacceptable residual risk would undermine the purpose of the overlay and increase the number of people exposed to potential hazard events. Accordingly, it is appropriate that HS-R3 also captures changes to existing sensitive activities that would materially increase exposure.
- (160) However, the terms "expansion" and "intensification" are broad and open to interpretation when applied within a rule framework. If used without clarification, they may create uncertainty for plan users as to which changes trigger the rule and non-complying activity status. To ensure clarity and consistent implementation, it is considered more appropriate to refer to additions or alterations to existing activities sensitive to hazardous substance

risks that materially increase exposure, as this wording is used consistently across the Proposed District Plan.

- (161) Where an existing activity intensifies in a manner that goes beyond its permitted or lawfully established baseline (for example through increased occupancy, hours of operation, or use intensity), and existing use rights are not available, that activity would be captured as a new activity under clause (a) of Rule HS-R3.
- (162) Further, not all additions or alterations would necessarily increase risk. For example, internal reconfiguration or non-habitable minor alterations may not materially increase the number of people exposed to hazardous substance risk. To appropriately target the rule, it should apply only where additions or alterations increase the habitable use, occupancy, or intensity of use of the sensitive activity. This approach better reflects the underlying risk-based rationale of the hazardous substances framework and avoids capturing changes that do not increase exposure. It also ensures that both physical and non-physical increases in exposure are appropriately managed without relying on an imprecise “intensification” trigger.
- (163) Seaview Marina Ltd opposes the Fuel Companies’ submission. This opposition is supported insofar as it relates to the inclusion of the fuel transmission pipeline corridor and the need to avoid overly broad or ambiguous rule triggers.
- (164) Overall, HS-R3 is supported, with targeted amendments to ensure the rule clearly captures increases in exposure arising from additions or alterations to sensitive activities, while retaining focus on the Hazardous Substances Risk Management Overlay.

Recommendation

- (165) Accept in part the relief sought by Enviro NZ (323.37), The Fuel Companies (471.168), and Seaview Marina Ltd (F14.21) and amend Rule HS-R3 as shown below:

HS-R3 ~~New~~ Activities sensitive to hazardous substance risks within the Hazardous Substances Risk Management Overlay

All zones

1. Activity status: Non-complying

Where:

a. A new activity sensitive to hazardous substance risks is proposed within the Hazardous Substances Risk Management Overlay; or

b. Additions or alterations to an existing activity sensitive to hazardous substance risks are proposed within the Hazardous Substances Risk Management Overlay, including changes to the scale, intensity, or manner of use, where those additions or alterations would result in:

i. an increase in habitable floor area; or

ii. an increase in the frequency or duration of habitable use of the site, or

iii. an increase in the number of people occupying the site.

Section 32AA Assessment

- (166) The recommended amendments to Rule HS-R3 are the most appropriate way to achieve the objectives of the PDP as they clarify and strengthen the management of activities sensitive to hazardous substance risks within areas of unacceptable residual risk. Extending the rule to capture changes to existing activities that materially increase exposure improves effectiveness by managing incremental increases in risk over time, thereby benefiting people and communities through improved safety outcomes. The recommended wording uses clearly defined, exposure-based triggers, which provides certainty and enforceability, reducing the likelihood of unnecessary disputes or compliance costs for applicants and Council. Overall, the amendments improve the efficiency and effectiveness of the rule while maintaining a clear, risk-based planning framework consistent with Part 2 of the RMA.

Hazardous Substances Risk Management Overlay

Submissions

- (167) Z Energy Ltd (468.2e, 468.3e and 468.4e) supports the mapping of 55-59 Seaview Road, 59 Seaview Road and 58 Seaview Road in the Hazardous Substances Risk Management Overlay.

- (168) The Fuel Companies (471.321) oppose the Hazardous Substances Risk Management Overlay in part, and request that it be amended to be based on the sensitive land use criteria risk contours (0.5×10^{-6}) rather than the residential land use criteria risk contours (1×10^{-6}) (shown in Attachment A of their submission).
- (169) Seaview Marina Ltd (F14.46) made a further submission opposing the submission point of the Fuel Companies (471.321).

Assessment

- (170) The Hazardous Substances Risk Management Overlay spatially identifies areas subject to unacceptable residual risk from existing significant hazardous facilities, based on quantitative risk assessment.
- (171) Z Energy Ltd supports the inclusion of 55–59 Seaview Road, 59 Seaview Road and 58 Seaview Road within the overlay. This support is noted.
- (172) The Fuel Companies oppose the overlay in part and seek to amend the methodology so that it is based on the sensitive land use individual fatality risk criterion (0.5×10^{-6} per year) rather than the residential land use criterion (1×10^{-6} per year). It is noted for clarity that in the relief sought section of the Fuel Companies' submission it incorrectly describes the sensitive land use criterion as 1×10^{-6} , whereas the correct threshold for sensitive land uses (such as hospitals and schools) is 0.5×10^{-6} . This report adopts the correct terminology and thresholds.
- (173) New Zealand does not have guidance for determining appropriate risk thresholds. The New South Wales land-use safety planning guidance called Hazardous Industry Planning Advisory Papers (HIPAP) is commonly used in New Zealand for district plan purposes. HIPAP establishes a graduated, risk-based framework that differentiates acceptable individual fatality risk thresholds according to land-use sensitivity. Under that framework:
- 0.5×10^{-6} per year applies to highly sensitive uses (e.g. hospitals, schools, child-care facilities);
 - 1×10^{-6} per year applies to residential and other places of continuous occupancy; and
 - higher risk tolerances apply to commercial and industrial land uses.

- (174) In my review of other District Plans which apply hazardous substance risk overlays in industrial and port-related environments, the 1×10^{-6} individual fatality risk contour is commonly used as the strategic trigger for mapping risk-affected areas, with more restrictive controls for sensitive activities applied through objectives, policies, and rules rather than through blanket overlay expansion.
- (175) In the Lower Hutt Proposed District Plan as notified, the Hazardous Substances Risk Management Overlay applies predominantly within the Heavy Industrial Zone, with only limited incursion into the Seaview Marina Zone and small areas of residential zoning. This context is highly relevant to determining the appropriate risk threshold for the overlay.
- (176) The Proposed District Plan adopts an integrated planning framework where:
- Zones and zone interfaces manage baseline expectations of compatible and incompatible activities, including limitations on sensitive activities within industrial environments; and
 - District-wide overlays, including the Hazardous Substances Risk Management Overlay, apply additional controls only where residual risks require further management.
- (177) Within this framework, sensitive activities are already constrained or discouraged within the Heavy Industrial Zone and at its interfaces through zoning provisions. Applying the most stringent sensitive land use criterion (0.5×10^{-6}) as the basis for the overlay would therefore duplicate zone-based controls, extend the overlay well beyond its intended function, and risk unnecessary restriction of industrial and port-related land.
- (178) The overlay is not intended to represent the point at which all development becomes unacceptable, but rather to signal where additional consideration and restriction of sensitive activities is required. Within the overlay, rules already apply a non-complying activity status to new sensitive activities and it is recommended to apply to additions or alterations that increase occupancy, as set out at paragraph (165). This ensures that highly sensitive uses are effectively excluded, even though the overlay boundary itself is drawn at the residential risk criterion rather than the more conservative sensitive use threshold.

(179) Overall, in my opinion, defining the Hazardous Substances Risk Management Overlay using the 1×10^{-6} individual fatality risk threshold is the most appropriate and proportionate approach for Lower Hutt. This threshold aligns with established risk-based land-use planning practice, reflects the predominantly Heavy Industrial Zone context, and integrates effectively with the Proposed District Plan's zoning framework, where sensitive activities are already managed through zone provisions and targeted overlay rules. Adopting the more stringent sensitive land-use criterion for overlay mapping would unnecessarily duplicate controls and extend constraints beyond what is required to manage residual risk.

Recommendation

(180) Retain the Hazardous Substances Risk Management Overlay as notified. Accept the relief sought by Z Energy (468.2e, 468.3e and 468.4e) and further submission from Seaview Marina Ltd (F14.46), and reject the submission from The Fuel Companies (471.321).

Section 32AA Assessment

(181) As I am not recommending any amendments to the Hazardous Substances Risk Management Overlay, a section 32AA assessment is not required.

3.6.2 Contaminated Land chapter

Whole chapter - Contaminated Land

Submissions

(182) Clarus (474.58) support the Contaminated Land chapter.

Assessment

(183) The support for the chapter is noted.

Recommendation

(184) As I am recommending amendments to provisions within the chapter in response to the relief sought by other submitters (evaluated below), I recommend accepting in part the relief sought by Clarus (474.58).

Introduction – Contaminated Land

Submissions

(185) The Fuel Companies (471.152) support in part the Introduction of the Contaminated Land chapter in terms of general intent, but request that it is replaced in full by the following:

The purpose of the Contaminated Land chapter is to ensure that contaminated land is identified and managed so that it is safe for human health and its intended use.

Hutt City Council, Wellington Regional Council and the Ministry for the Environment all play a role in managing contaminated land:

- The Ministry for the Environment maintains the Hazardous Activities and Industries List (HAIL). This is a list of activities and industries that are likely to contaminate land through the use, storage or disposal of hazardous substances.*
- Wellington Regional Council is responsible for the investigation of land for the purposes of identifying and monitoring contaminated land. As part of this role, Wellington Regional Council administers the Selected Land Use Register (SLUR). This is a regional database of sites that have or may have been used for activities and industries listed in the HAIL. Wellington Regional Council is also responsible for controlling discharges of contaminants into or onto land, air, or water and discharges of water into water.*
- Hutt City Council is responsible for controlling any actual or potential effects of the use, development, or protection of land for the purpose of preventing and mitigating any adverse effects of the development, subdivision or use of contaminated land. In performing this function, Hutt City Council uses the HAIL and SLUR to identify and record information on contaminated land.*

The Resource Management (National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health) Regulations 2011 (NESCS) is a framework of rules which regulate the following activities on contaminated or potentially contaminated land:

 - removing or replacing a fuel storage system;*
 - sampling soil;*
 - disturbing soil;*
 - changing use; and*
 - subdividing.*

The NESCS directs the requirement for resource consent or otherwise in relation to these activities. There are no independent or additional contaminated land rules in the District Plan. This chapter provides a policy framework for assessing applications which require resource consent under the NESCS.

- (186) WRC (F38.80) made a further submission opposing the submission point of the Fuel Companies (471.152).

Assessment

- (187) The Introduction to the Contaminated Land chapter sets the context for how contaminated land is identified and managed under the District Plan and clarifies the respective roles of central, regional and territorial authorities. The Fuel Companies support the general intent of the introduction and acknowledge that explaining the functions of the Ministry for the Environment, Wellington Regional Council and Hutt City Council, as well as the relationship with the NESCS, is helpful.
- (188) The Fuel Companies seek to replace the notified introduction in full, primarily on the basis that it is overly detailed, duplicates definitions contained elsewhere in the plan, and inappropriately refers to effects on the natural environment. They also contend that it is incorrect to suggest that any activity on land subject to a Hazardous Activities and Industries List (HAIL) entry must comply with the NESCS.
- (189) I agree with the Fuel Companies that the introduction text could be more streamlined. In particular, repeating the definitions of *contaminated land* and *hazardous substances* is not necessary where these terms are already defined in the Definitions chapter. Minor editing to reduce repetition and improve readability would be appropriate and would not alter the intent or effect of the chapter.
- (190) However, the request to substantially narrow the scope of the introduction so that it focuses solely on human health effects is not supported. While the NESCS is expressly framed around protecting human health, Hutt City Council's broader function under section 31 of the RMA includes controlling the effects of land use in order to prevent or mitigate adverse effects more generally. References in the introduction to potential effects on the natural environment are therefore not inappropriate, nor do they usurp the functions

of Wellington Regional Council. Rather, they acknowledge that contaminated land can give rise to multiple effects, even though regulatory responses may differ between agencies.

(191) In relation to the NESCS, I agree with the Fuel Companies that the standard regulates a defined set of activities on land to which it applies, namely soil disturbance, sampling, fuel storage system removal or replacement, subdivision, and land-use change. Clarification that the NESCS is activity-based would improve technical accuracy. However, WRC's concern that the introduction should not imply that activities on HAIL land are unrestricted unless captured by the NESCS is also valid. While not all activities require NESCS consent, the presence of HAIL or SLUR information remains relevant to planning and decision-making, and the introduction should continue to reflect that contaminated land may require consideration beyond the NESCS activities themselves.

(192) The replacement text proposed by the Fuel Companies would unduly narrow the introduction and remove useful explanatory context about contaminated land management under the District Plan. A more appropriate response is to retain the notified introduction with targeted refinement as recommended below, rather than replacing it in full.

Recommendation

(193) Accept in part the relief sought by the Fuel Companies (471.152), to the extent that the Introduction to the Contaminated Land chapter is amended to:

- reduce unnecessary repetition of definitions already contained in the Definitions chapter; and
- clarify that the NESCS applies to a defined set of regulated activities on contaminated or potentially contaminated land.

(194) Reject in part the relief sought by the Fuel Companies (471.152) insofar as it seeks to:

- remove references to effects on the natural environment; and
- replace the notified chapter Introduction in full.

(195) Accept the further submission point by Wellington Regional Council (F38.80) opposing full replacement of the notified Introduction.

(196) Amend the chapter Introduction text as shown below:

The purpose of the Contaminated Land chapter is to protect human health from the potential impacts of use and development of contaminated land.

~~*Contaminated land is defined in the Resource Management Act as land that has a hazardous substance in or on it that:*~~

- ~~*a. Has significant adverse effects on the environment, or*~~
- ~~*b. Is reasonably likely to have significant adverse effects on the environment.*~~

~~*Hazardous substances are defined in the Hazardous Substances and New Organisms Act 1996 as substances:*~~

- ~~*a. With 1 or more of the following intrinsic properties:*~~
 - ~~*i. Explosiveness,*~~
 - ~~*ii. Flammability,*~~
 - ~~*iii. A capacity to oxidise,*~~
 - ~~*iv. Corrosiveness,*~~
 - ~~*v. Toxicity (including chronic toxicity),*~~
 - ~~*vi. Ecotoxicity, with or without bioaccumulation, or*~~
- ~~*b. Which on contact with air or water (other than air or water where the temperature or pressure has been artificially increased or decreased) generates a substance with any 1 or more of these properties.*~~

The identification, management and remediation of contaminated land can enable future use and development of the land and can reduce potential impacts to the health of people, communities and the natural environment.

Roles of Hutt City Council, Wellington Regional Council and Ministry for the Environment

Hutt City Council, Wellington Regional Council and the Ministry for the Environment all play a role in the management of contaminated land.

The Ministry for the Environment maintains the Hazardous Activities and Industries List (the HAIL). This is a list of activities and industries that are likely

to contaminate land through the use, storage or disposal of hazardous substances.

The Wellington Regional Council is responsible for the investigation of land for the purposes of identifying and monitoring contaminated land. As part of this role, Wellington Regional Council administers the Selected Land Use Register (SLUR). This is a regional database of sites that have or may have been used for activities and industries listed in the HAIL. Wellington Regional Council is also responsible for controlling discharges of contaminants into or onto land, air, or water and discharges of water into water.

Hutt City Council is responsible for controlling any actual or potential effects of the use, development, or protection of land for the purpose of preventing and mitigating any adverse effects of the development, subdivision or use of contaminated land. In performing this function, Hutt City Council uses the HAIL and SLUR to identify and record information on contaminated land.

National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health

The Resource Management (National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health) Regulations 2011 (NESCS) is a [national](#) framework of rules that address activities on sites with contaminated or potentially contaminated land. [The standard applies to the following activities on land:](#)

- [removing or replacing a fuel storage system;](#)
- [sampling soil;](#)
- [disturbing soil;](#)
- [subdividing land; and](#)
- [changing the use of land.](#)

[The NES-CS determines whether these activities are permitted, require a controlled or restricted discretionary resource consent, or are prohibited, based on the level of risk to human health.](#)

~~[If a person wants to carry out activities on land where an activity on the HAIL has occurred, the proposed activity must comply with the NESCS.](#)~~

There are no district plan rules that duplicate or override the NES-CS. Instead, this chapter contains an objective and policies ~~that give guidance for to~~ guide the assessment of resource consent applications required under the NESCS and to ensure that land-use decisions appropriately consider contaminated land, its effects, and its suitability for current or proposed uses.

Section 32AA Assessment

- (197) The recommended amendments to the Introduction of the Contaminated Land chapter are the most appropriate way to achieve the objectives of the PDP as they improve clarity, accuracy, and plan usability while retaining the substantive intent of the notified provisions. Deleting repetitive definitions and clarifying the activity-based nature of the NESCS reduces uncertainty for plan users, helping applicants and decision-makers better understand when consent is required and avoiding unnecessary compliance costs. The benefits of the amendments accrue to applicants, Council, and affected landowners through clearer guidance and more efficient decision-making, while costs are minimal and limited to minor transitional familiarisation. Overall, the amendments enhance the efficiency and effectiveness of the District Plan without introducing additional regulatory burden, consistent with Part 2 of the RMA.

CL-O1 Safety of contaminated land

Submissions

- (198) The Fuel Companies (471.153) support Objective CL-O1 in part, and request the following amendment:

"Contaminated and potentially contaminated land ~~is~~ are safe for human health and its their intended use."

- (199) WRC (F38.81) made a further submission supporting the submission point of the Fuel Companies (471.153).

Assessment

- (200) The requested amendments to the objective are supported as they improve grammatical accuracy and clarity.

Recommendation

- (201) Accept the relief sought by the Fuel Companies (471.153) and the further submission point from WRC (F38.81) and amend the objective as shown below:

CL-01 Safety of contaminated land

Contaminated and potentially contaminated land ~~is~~ are safe for human health and their ~~its~~ intended use.

Section 32AA Assessment

- (202) The recommended amendment to Objective CL-01 is the most appropriate way to achieve the purpose of the RMA as it corrects grammatical errors and improves clarity without altering the substantive intent of the provision. The amendment provides clearer direction to plan users and decision-makers, reducing ambiguity and the potential for misinterpretation, and supports more efficient and consistent plan implementation. The costs associated with the change are negligible and limited to minor familiarisation, while the benefits of improved certainty and plan effectiveness outweigh any such costs.

CL-P1 (Identification of contaminated and potentially contaminated land)

Submissions

- (203) WRC (452.71) and the Fuel Companies (471.154) support Policy CL-P1 in part, and request amendments to the policy.

- (204) WRC request the policy is amended to:

Identify contaminated land and potentially contaminated land prior to subdivision, change of use, or development by:

- 1. Working with Wellington Regional Council to maintain the Selected Land Use Register, and*
- 2. Requiring the investigation of contaminant risks for sites with a history of land use or activity that could have resulted in contamination of soil.*
- 3. If a site has not been identified on the Select Land Use Register, a*

Preliminary Site Investigation must be undertaken, to determine if a HAIL activity has occurred onsite.

(205) The Fuel Companies request the policy is amended to:

Identify contaminated ~~land~~ and potentially contaminated land prior to subdivision, change of use, or development by:

- 1. Working with Wellington Regional Council to maintain the Selected Land Use Register, and*
- 2. Requiring the investigation of contaminant risks, where necessary, for sites with a history of land use or activity that could have resulted in contamination of soil.*

(206) WRC (F38.82) made a further submission opposing the submission point of the Fuel Companies (471.154).

Assessment

(207) WRC and the Fuel Companies both support Policy CL-P1 in part and seek amendments to clarify how contaminated and potentially contaminated land is identified prior to subdivision, change of use, or development.

(208) WRC seeks to strengthen the policy by requiring proactive investigation of contaminant risks, including where a site is not recorded on the SLUR. Their submission reflects concern that reliance on SLUR information alone may result in contaminated land not being identified, and seeks clearer expectations around when investigations, including Preliminary Site Investigations, should occur.

(209) The Fuel Companies also seek clarification but favour a more flexible, risk-based approach. They support collaboration with WRC and investigation of contaminant risks where there is a history of potentially contaminating activities, but oppose overly prescriptive requirements that could mandate investigations where there is no reasonable basis or exceed NES-CS expectations.

(210) WRC's further submission opposes the wording in the Fuel Companies' submission on the basis that it may weaken the identification of contaminated land.

(211) I agree with the intent of WRC's relief sought – to improve identification of contaminated land and reduce reliance solely on SLUR data. It is recognised

that SLUR information may be incomplete or lag behind changes in land use, and that investigation may be necessary even where a site is not recorded. Strengthening the policy to better reflect this is appropriate.

- (212) However, in my opinion the wording proposed by WRC is overly prescriptive for a policy and risks duplicating the activity triggers and technical investigation pathways already set by the NES-CS. In particular, requiring a PSI solely because a site is not recorded on the SLUR may capture sites where there is no reasonable basis to suspect contaminating activities, going beyond what is necessary at the policy level.
- (213) I also agree in part with the approach proposed by the Fuel Companies. A policy should provide direction but allow for professional judgement based on site-specific circumstances. Recognising that investigation should be required where there is evidence or reasonable potential of contamination aligns with both good planning practice and the NES-CS framework, which is effects- and activity-based rather than universal.
- (214) On balance, it is appropriate to amend Policy CL-P1 to require investigation where there is a history, evidence, or reasonable suspicion of activities that could have resulted in soil contamination, rather than mandating investigation solely on the basis of an absence of SLUR records.
- (215) This approach strengthens the policy without duplicating regulatory mechanisms established under the NES-CS or imposing unnecessary investigation requirements. It also addresses WRC's concern regarding under-identification while responding to the Fuel Companies' concerns about proportionality.
- (216) The further submission by WRC opposing the Fuel Companies' wording is therefore supported in part, insofar as it reinforces the need for clear investigative direction, but not to the extent of adopting the more rigid wording proposed.

Recommendation

- (217) Accept in part the relief sought by WRC (452.71) and the Fuel Companies (471.154), and the further submission from WRC (F38.82), and amend policy CL-P1 as shown below:

CL-P1 Identification of contaminated and potentially contaminated land

Identify contaminated ~~land~~ and potentially contaminated land prior to subdivision, change of use, or development by:

1. Working with Wellington Regional Council to maintain the Selected Land Use Register, and
2. Requiring the investigation of contaminant risks for sites ~~with where there is evidence, a history, or reasonable potential~~ of land use or activity that could have resulted in contamination of soil, including activities listed on the Hazardous Activities and Industries List (HAIL).

Section 32AA Assessment

- (218) The recommended amendment to Policy CL-P1 is the most appropriate way to achieve the objectives of the PDP as it improves clarity and effectiveness by strengthening direction on when investigation of contaminant risks is required, while retaining a proportionate, risk-based approach. Requiring investigation where there is evidence, a history, or reasonable potential for contamination reduces the risk of contaminated land being overlooked and benefits people, communities, and future land users through improved environmental and human health outcomes. At the same time, avoiding a blanket requirement for investigation solely due to the absence of SLUR records reduces unnecessary investigation and compliance costs for landowners and developers. The amendment supports professional judgement, aligns with the NES-CS framework, and avoids duplication of regulatory mechanisms, resulting in improved certainty, more efficient decision-making, and a balanced distribution of costs and benefits consistent with Part 2 of the RMA.

CL-P2 Management of contaminated land

Submissions

- (219) The Fuel Companies (471.155) support Policy CL-P2 in part, and request the following amendment:

~~Minimise the risk to human health from the subdivision, change of use, removal or replacement of fuel storage systems, or sampling or disturbing soil of contaminated land by:~~

~~1. Encouraging a best practice approach to site management for sites with elevated contaminant levels, which may include remediation, containment, and/or the disposal of contaminated soil, and~~

~~2. Ensuring the land is safe for its intended use.~~

Ensure that the subdivision, change of use or development of contaminated and potentially contaminated land is managed (such as remediation, pathway controls or receptor controls where necessary) so that it is safe for human health and its intended use.

- (220) WRC (F38.83) made a further submission opposing the submission point of the Fuel Companies (471.155).

Assessment

- (221) I agree with the intent of the Fuel Companies submission in that the proposed wording reinforces that contaminated land can be managed through a range of proportionate responses, rather than remediation alone, and that the outcome sought is land that is safe for human health and its intended use. This wording aligns with the NES-CS framework, which allows for remediation, pathway management, or receptor management depending on site-specific risk.
- (222) However, I do not consider the Fuel Companies' requested wording reflects the management framework in the NES-CS. The policy should reflect this management framework at a high-level and be outcome-focused to achieve Policy CL-O1. I agree in part with the WRC further submission, expressing concern that the amendments may weaken the policy direction or reduce clarity around management expectations. However, with appropriate drafting refinements, the policy can incorporate the Fuel Companies' intent without diminishing its effectiveness or the protective function of the contaminated land framework.
- (223) On balance, it is appropriate to amend Policy CL-P2 to better articulate that contaminated land can be managed using a range of best-practice methods where necessary, while retaining clear direction that subdivision, change of use, or development must not proceed unless land is safe for human health and its intended use. The policy should continue to complement, rather than duplicate, the NES-CS.

Recommendation

(224) Accept in part the relief sought by the Fuel Companies (471.155) and the further submission point from Wellington Regional Council (FS38.83) to the extent that Policy CL-P2 is amended to:

- recognise that contaminated land may be managed through remediation, containment, pathway controls, or receptor controls where necessary; and
- clearly state the outcome that land is safe for human health and its intended use.

(225) I recommend Policy CL-P2 is amended as shown below:

CL-P2 Management of contaminated land

~~*Manage contaminated and potentially contaminated land so that it is safe for Minimise the risk to human health and suitable for its intended use from the subdivision, change of use, removal or replacement of fuel storage systems, or sampling or disturbing soil of contaminated land*~~ by:

1. ~~*Encouraging a Applying best practice approach to site management measures where necessary for sites with elevated contaminant levels, which may include*~~ remediation, containment, ~~*and/or the*~~ disposal of contaminated soil, ~~*and/or pathway or receptor controls,*~~ and
2. Ensuring ~~*the land is safe for its intended use subdivision, change of use, or development does not proceed unless contaminant risks have been appropriately managed.*~~

Section 32AA Assessment

(226) The recommended amendments to Policy CL-P2 are the most appropriate way to achieve the objectives of the PDP as they clarify the policy's intent while retaining a clear, outcomes-focused approach consistent with the NES-CS framework. Explicitly recognising that contaminated land may be managed through a range of best-practice measures, including remediation, containment, pathway controls, or receptor controls, improves certainty and flexibility for plan users and reduces unnecessary remediation costs where alternative risk management approaches are appropriate. Clearly reaffirming the outcome that land must be safe for human health and its intended use ensures continued protection of people and communities. The benefits of the amendments include improved clarity, more efficient consent assessment,

and reduced compliance costs for landowners and developers, while any additional costs are limited and proportionate, arising only where contaminant risks require management to achieve the required safety outcome. Overall, the amendments improve the efficiency and effectiveness of the policy without weakening environmental or human health protections, consistent with Part 2 of the RMA.

CL-P3 (Benefit of remediating contaminated land)

Submissions

(227) The Fuel Companies (471.156) support Policy CL-P3.

Assessment

(228) The support for this policy is noted.

Recommendation

(229) Accept the relief sought by The Fuel Companies (471.156) and retain Policy CL-P3 as notified.

Rules section – Contaminated Land chapter

Submissions

(230) The Fuel Companies (471.157) support the Rules section of the Contaminated Land chapter.

Assessment

(231) The support for the rules section is noted.

Recommendation

(232) Accept the relief sought by The Fuel Companies (471.157) and retain the Rules section of the Contaminated Land Chapter as notified.

3.6.3 Key definitions for the Hazardous Substances and Contaminated Land chapters

Note: This section only addresses submissions on key definitions for the Hazardous Substances and Contaminated Land chapters. Other terms used in the chapters are defined (such as site and environment) and while submissions have been received on these other terms, the submissions will be addressed through a more appropriate section 42A report.

Definition: Activities sensitive to hazardous substance risks

Submissions

- (233) The Ministry of Education (399.3), Enviro NZ (323.3), Z Energy Ltd (468.10b), Z Energy Ltd (468.10b) and the Fuel Companies (471.2) support the definition of *activities sensitive to hazardous substance risks*.
- (234) Seaview Marina Ltd (F14.11) made a further submission opposing the relief sought by the Fuel Companies (471.2).

Assessment

- (235) The definition of *activities sensitive to hazardous substance risks* identifies land uses that are particularly vulnerable to risks associated with hazardous substances, typically due to the nature of occupancy, duration of exposure, or the vulnerability of occupants. The definition is relied on throughout the hazardous substances provisions to guide the identification and management of inappropriate land-use interactions, including reverse sensitivity issues. It is also used in the Infrastructure chapter, reinforcing the need for consistency and clarity.
- (236) The support of the definition as notified from the Ministry of Education, Enviro NZ, Z Energy Ltd, and the Fuel Companies is noted. This support indicates that the definition is generally well-understood, appropriately scoped, and fit for purpose within the plan framework.
- (237) Seaview Marina Ltd opposes the definition in their further submission opposing the Fuel Companies original submission seeking the definitions be retained as notified. Seaview Marina's opposition is particularly in light of the Fuel Companies' request to extend the Hazardous Substances Risk

Management Overlay and introduce a new Hutt City fuel transmission pipeline corridor. The concern appears to be that, if the spatial extent of hazardous substance controls were expanded, the definition could be used in a way that unjustifiably constrains marina-related or other activities.

- (238) However, the definition itself does not introduce regulatory effect in isolation. It functions as a supporting component that enables policies and rules to identify sensitive activities once they are triggered by specific overlays, zones, or activity statuses.
- (239) In its current form, the definition appropriately focuses on activities where people may be present for extended periods or where occupants are less able to respond to emergency situations. This aligns with established risk-based planning practice and the objectives of the hazardous substances framework. It does not capture general commercial, industrial, or marina activities unless those activities clearly meet the definition's criteria.
- (240) Given its cross-chapter application, any amendment to the definition would have broader implications beyond the hazardous substances chapter and could create unintended inconsistencies. No evidence has been provided that the definition is unclear, overly broad, or misaligned with the plan's intent.
- (241) For these reasons, the definition of *activities sensitive to hazardous substance risks* is considered appropriate as notified and should be retained unchanged.

Recommendation

- (242) Accept the relief sought by MoE (399.3), Enviro NZ (323.3), Z Energy Ltd (468.10b), and the Fuel Companies (471.2).
- (243) Reject in part the further submission by Seaview Marina Ltd (F14.11) insofar as the further submission relates to the definition of *activities sensitive to hazardous substance risks*.
- (244) Retain the definition as notified, noting that it is also used in the Infrastructure chapter and that concerns raised by Seaview Marina Ltd are addressed through decisions on overlay extent and corridor provisions rather than by altering the definition itself.

Section 32AA Assessment

(245) As I am not recommending any amendments to the definition of *activities sensitive to hazardous substance risks*, a section 32AA assessment is not required.

Definition: Contaminated land

Submissions

(246) The Fuel Companies (471.20) support the definition of *contaminated land*.

Assessment

(247) The support for this definition is noted.

Recommendation

(248) Accept the relief sought by The Fuel Companies (471.20) and retain the definition of *Contaminated land* as notified.

Definition: Hazardous substance

Submissions

(249) FENZ (374.5) and The Fuel Companies (471.25) support the definition of *hazardous substance* and seek the definition is retained as notified.

Assessment

(250) The support for this definition is noted.

Recommendation

(251) Accept the relief sought by FENZ (374.5) and The Fuel Companies (471.25) and retain the definition of *Hazardous substance* as notified.

Definition: Hazardous Substance Risk Management Overlay

Submissions

(252) The Fuel Companies (471.26 and 471.67) support the definition of *Hazardous Substance Risk Management Overlay* in part, but request that the term is replaced with *Hazardous Facility Risk Management Overlay*.

Assessment

- (253) The Hazardous Substances Risk Management Overlay identifies areas subject to unacceptable residual risk arising from existing facilities, with the extent of the overlay determined through a quantitative risk assessment that reflects the nature, quantity, and characteristics of hazardous substances handled at those facilities.
- (254) The Fuel Companies support the definition in part and seek to rename the overlay as the Hazardous Facility Risk Management Overlay on the basis that risk is generated by facilities rather than hazardous substances in isolation. This request is supported.
- (255) I agree with this requested amendment as renaming the overlay would improve clarity for plan users by establishing an explicit connection between the overlay and the facilities to which it relates, without altering the purpose, thresholds, or regulatory outcomes of the hazardous substances framework. Consequential amendments to the Hazardous Substances chapter and planning maps would be straightforward and largely terminological in nature.

Recommendation

- (256) Accept the relief sought by the Fuel Companies (471.26 and 471.67) and amend the term and definition of the “Hazardous Substances Risk Management Overlay” to “Hazardous **Facility** Risk Management Overlay”.
- (257) Make consequential amendments to all associated references in the Hazardous Substances chapter, planning maps, and related provisions to rename the overlay as the Hazardous Facility Risk Management Overlay.

Section 32AA Assessment

- (258) This amendment improves the effectiveness and efficiency of the definition to aid consistent interpretation of the PDP.

Definition: Quantitative risk assessment

Submissions

- (259) The Fuel Companies (471.73) oppose the definition of *quantitative risk assessment* in part, and request the following amendments:

in relation to risks from hazardous substances, means a risk assessment used to systematically calculate the risks from hazardous events for a significant

~~hazardous facility. Involves predicting the size of consequences associated with a hazard, and the frequency at which a release of the hazard may be expected to occur. The risk assessment should account for both the consequences (effects) and likelihood (probability) of a hazardous event occurring. These aspects are then combined in order to obtain a modelled risk profile for the facility, which can be expressed in terms of risk criteria relevant to the facility and receiving environment, numerical values for risk, such as risk of fatality.~~

Assessment

- (260) I agree with the requested amendments to the definition as they more accurately and clearly outline what a *Quantitative Risk Assessment* (QRA) is, specifically it is a probabilistic tool that integrates consequence modelling and event frequency (likelihood). The amended definition would also provide clearer linkage between the definition and the plan provisions that rely on QRA outputs, including the Hazardous Facility Risk Management Overlay and associated policies and rules. For these reasons, the requested amendments are considered appropriate.

Recommendation

- (261) Accept the relief sought by the Fuel Companies (471.73) and amend the definition of *Quantitative Risk Assessment* as shown below:

in relation to risks from hazardous substances, means a risk assessment used to systematically calculate the risks from hazardous events for a significant hazardous facility. ~~Involves predicting the size of consequences associated with a hazard, and the frequency at which a release of the hazard may be expected to occur. The risk assessment should account for both the consequences (effects) and likelihood (probability) of a hazardous event occurring. These aspects are then combined in order to obtain a modelled risk profile for the facility, which can be expressed in terms of risk criteria relevant to the facility and receiving environment, numerical values for risk, such as risk of fatality.~~

Section 32AA Assessment

- (262) The recommended amendment to the definition of *Quantitative Risk Assessment* is the most appropriate way to achieve the objectives of the PDP

as it improves technical accuracy and clarity, reducing uncertainty for plan users and decision-makers. The amended definition clearly explains that QRA is a probabilistic assessment integrating both consequence and likelihood, aligning the definition with established risk assessment practice and the District Plan provisions that rely on QRA outputs. The benefits of the amendment are improved certainty, consistency and efficiency in plan implementation, with no additional compliance costs beyond minor familiarisation. The amendment therefore enhances the efficiency and effectiveness of the District Plan in accordance with Part 2 of the RMA.

Definition: Residual risk

Submissions

- (263) The Fuel Companies (471.76) support the definition of *Residual risk* in part, and request the following amendment:

means, in relation to the Hazardous Substances chapter, ~~the level of~~ any remaining risk of an adverse effect after other industry controls, legislation and regulations, including the Hazardous Substances and New Organisms Act 1996, the Land Transport Act 1998, the Health and Safety at Work (Hazardous Substances) Regulations 2017 and any other subordinate instruments, and regional plans have been complied with.

Assessment

- (264) The definition of *Residual risk* is used throughout the Hazardous Substances chapter to describe the risk that remains after compliance with other applicable legislative and regulatory controls. The Fuel Companies support the intent of the definition but seek a minor amendment to remove the words “the level of”, so that the definition does not imply that residual risk must always be quantified.
- (265) I support the requested amendment as removing the reference to “the level of” risk clarifies that residual risk may be expressed either qualitatively or quantitatively, depending on context, and does not require formal numerical assessment in all cases.

- (266) The requested change does not alter the substantive meaning or application of the definition, nor does it affect the role of residual risk within the Hazardous Substances chapter. Instead, it improves clarity and avoids unintended interpretation that residual risk must always be expressed as a measurable or quantified value.
- (267) For these reasons, the amendment is considered appropriate and is supported.

Recommendation

- (268) Accept the relief sought by the Fuel Companies (471.76) and amend the definition of *Residual risk* as shown below:

means, in relation to the Hazardous Substances chapter, ~~the level of~~ any remaining risk of an adverse effect after other industry controls, legislation and regulations, including the Hazardous Substances and New Organisms Act 1996, the Land Transport Act 1998, the Health and Safety at Work (Hazardous Substances) Regulations 2017 and any other subordinate instruments, and regional plans have been complied with.

Section 32AA Assessment

- (269) This minor amendment improves plan interpretation and implementation, which reduces administration costs.

Definition: Significant hazardous facility

Submissions

- (270) Enviro NZ (323.18) and Clarus (474.9) support the definition of *Significant hazardous facility*.
- (271) FENZ (374.10) and the Fuel Companies (471.80) support the definition of *Significant hazardous facility* in part, and request amendments:
- (272) FENZ request the following amendment:
- means any facility which involves one or more of the following activities:*
- 1. Use and Manufacturing of hazardous substances (including industries using or manufacturing agrochemicals, fertilisers, acids/alkalis, solvents or paints),*
- ...
- 16. Asphalt/bitumen manufacture or storage.*

17. Laboratories.

18. Mainfreight.

19. Ports.

20. Universities.

21. Fine chemical users or producers.

17. The storage and/or use of radioactive materials or radiation sources.

18. The storage and/or treatment of hazardous substances at waste disposal, reuse or recycling facilities (including electronic waste and items containing disposal batteries) or the stockpiling of hazardous substances awaiting reuse, recycling, or treatment at such facilities).

The following activities are not considered to be significant hazardous facilities:

• the incidental use and storage (including for disposal) of hazardous substances for emergency service activities."

(273) The Fuel Companies request the following amendment:

means any facility which involves one or more of the following activities:

1. Manufacturing of hazardous substances (including industries manufacturing agrochemicals, fertilisers, acids/alkalis or paints),

...

16. Asphalt/bitumen manufacture or storage.

This definition does not apply to:

1. The underground storage of petrol and diesel at service stations and truck stops that is undertaken in accordance with HSNOCOP 44 Below Ground Stationary Container Systems for Petroleum – Design and Installation and HSNOCOP 45 Below Ground Stationary Containers Systems for Petroleum – Operation.

2. The distribution or transmission by pipelines of petroleum products.

(274) Waste Management NZ Ltd (F39.7) made a further submission opposing the relief sought by FENZ (374.10).

Assessment

(275) The definition of *significant hazardous facility* is intended to identify facilities that require additional land-use management due to the potential for residual off-site risk, after compliance with national statutory controls such as

the Hazardous Substances and New Organisms Act 1996 (HSNO), the Health and Safety at Work Act 2015 (HSWA), and associated regulations and codes of practice. The definition operates within an integrated planning framework, where zoning provisions manage general activity compatibility and interfaces, and hazardous substances provisions only address risks not otherwise managed.

- (276) Enviro NZ and Clarus support the definition as notified, indicating that it is generally effective in identifying facilities of concern.
- (277) FENZ and the Fuel Companies support the definition in part and seek amendments. Their submissions raise different issues and are evaluated accordingly.
- (278) FENZ seeks to expand the definition to include a wider range of activities, including laboratories, universities, ports, logistics and courier facilities, radiation and biological hazard facilities, and hazardous waste storage, reuse, and recycling facilities. FENZ provides information in their submission that some activities—particularly hazardous waste facilities where stockpiling can occur, and facilities involving radiation or biological hazards—may generate residual or escalating land-use risks that are not always foreseeable or fully addressed at establishment under national regulatory regimes. These concerns are acknowledged.
- (279) However, for several other activities identified by FENZ (including laboratories, universities, ports as a general category, and logistics or courier facilities), insufficient information has been provided to demonstrate that they typically involve hazardous substances at a scale, duration, or configuration that results in residual land-use risk beyond what is already managed through zoning and hazardous substances legislation and regulations. It is possible that hazardous substance use within these activities is limited, controlled, incidental, or episodic, and the zoning framework already anticipates and manages their location relative to sensitive activities. Inclusion of these activities in the definition of ‘significant hazardous facility’ would risk shifting the definition away from its intended risk-based focus and duplicating controls that are more appropriately managed elsewhere. FENZ may wish to provide more information or evidence at the hearing demonstrating the residual land use risk of these activities.

- (280) FENZ also seeks confirmation that emergency service activities are excluded from the definition. As 'emergency service activities' are not listed in the notified version of the definition of *Significant hazardous facility* this exclusion is not necessary.
- (281) The Fuel Companies seek exclusions for underground petroleum storage at service stations that comply with approved HSNO Codes of Practice, and for petroleum transmission pipelines. These requests are supported, as such activities are comprehensively regulated under national regimes or managed through separate plan frameworks and do not generally give rise to residual land-use risks requiring treatment as significant hazardous facilities.
- (282) Overall, the submissions support retaining a targeted definition. While some expansion may be justified where clear residual land-use risk has been identified, further evidence would be required to support inclusion of additional broad activity categories. Amendments should be limited to those activities that demonstrably generate risks not otherwise managed through zoning or non-District Plan statutory controls.

Recommendation

- (283) Accept the relief sought by Enviro NZ (323.18) and Clarus (474.9) to retain the definition.
- (284) Reject the relief sought by Fire and Emergency New Zealand (374.10) and accept the further submission by Waste Management NZ Ltd (F39.7) to retain the definition.
- (285) Accept the relief sought by the Fuel Companies (471.80) and amend the definition to expressly exclude underground storage of petrol and diesel at service stations and truck stops that complies with approved HSNO Codes of Practice; and the distribution or transmission of petroleum products by pipeline, as shown below.

means any facility which involves one or more of the following activities:

1. Manufacturing of hazardous substances (including industries manufacturing agrochemicals, fertilisers, acids/alkalis or paints),

...

16. Asphalt/bitumen manufacture or storage.

This definition does not apply to:

1. The underground storage of petrol and diesel at service stations and truck

stops that is undertaken in accordance with HSNO COP 44 Below Ground Stationary Container Systems for Petroleum – Design and Installation and HSNO COP 45 Below Ground Stationary Containers Systems for Petroleum – Operation.

2. The distribution or transmission by pipelines of petroleum products.

Section 32AA Assessment

- (286) The recommended amendments to the definition of *Significant Hazardous Facility* are the most appropriate way to achieve the objectives of the PDP as they retain a targeted, risk-based scope while improving clarity and avoiding unnecessary regulatory overlap. The exclusion of underground petroleum storage at service stations that complies with HSNO Codes of Practice, and petroleum distribution or transmission by pipeline, avoids duplication of comprehensive national regulatory regimes and prevents unnecessary compliance costs for operators where land-use risk is already appropriately managed. While the benefits include clearer application of hazardous substances controls and more efficient plan implementation, costs are minimal and largely limited to minor familiarisation. Overall, the amendments improve the effectiveness of the District Plan by aligning regulatory focus with residual land-use risk, consistent with Part 2 of the RMA.

3.6.4 Maps for the Hazardous Substances chapters

Hazardous Substances Risk Management Overlay

Submissions

- (287) The Fuel Companies (471.321) request amendments to the Hazardous Substance Risk Management Overlay so it is based on the sensitive land use criteria risk contours (1×10^{-6}) rather than the residential land use criteria risk contours (1×10^{-6}) (shown in Attachment A of the submission).
- (288) Seaview Marina Ltd (F14.46) opposes the relief sought by the Fuel Companies and the Hazardous Substance Risk Management Overlay in its current form and seeks an alternative rule framework that provides a consenting pathway for marina activities.

- (289) The Fuel Companies (471.322) request the addition of a "Hutt City Fuel Transmission Pipeline Corridor" to the District Plan maps, located based on the sensitive land use criteria risk contours (0.5×10^{-6}) of the Hutt City fuel transmission pipeline, being 40m either side of the pipeline (shown in Attachment B of the submission).
- (290) Seaview Marina Ltd (F14.47) opposes this relief sought from the Fuel Companies stating that it would introduce new restrictions over properties that were not previously subject to such controls and whose owners may not have been aware of the change. Seaview Marina Limited considers that the Hutt City fuel transmission pipeline does not meet the definition of a significant hazardous facility and that the proposed corridor would impose equivalent buffer effects without being subject to the same regulatory framework. Seaview Marina Limited also raises concern that the corridor would place additional constraints on land within the Seaview Marina Zone beyond those already imposed by the Hazardous Substances Risk Management Overlay.

Assessment

- (291) The Hazardous Substances Risk Management Overlay identifies areas subject to unacceptable residual risk from existing significant hazardous facilities, based on a quantitative risk assessment. The overlay functions within the integrated framework of the PDP, where zoning provisions establish baseline expectations for compatible and incompatible activities, and the overlay applies additional controls only where residual risks require further management.
- (292) The Fuel Companies request that the overlay be amended to be based on the sensitive land use individual fatality risk criterion, rather than the residential risk criterion currently used. It is noted that the relief sought incorrectly refers to the sensitive land use criterion as 1×10^{-6} , whereas the correct sensitive land use threshold is 0.5×10^{-6} .
- (293) As assessed elsewhere in this report, adopting the 1×10^{-6} residential risk contour as the basis for the overlay is appropriate in the Lower Hutt context. The overlay applies predominantly within the Heavy Industrial Zone, with limited incursions into residential and Seaview Marina zoned land.

- (294) Using the sensitive land use criterion to define the overlay extent would duplicate zone-based controls, significantly expand the overlay beyond its intended strategic function, and impose disproportionate constraints on industrial and port-related land without corresponding risk management benefit. Accordingly, the requested amendment is not supported.
- (295) The Fuel Companies seek to introduce a new Hutt City Fuel Transmission Pipeline Corridor, mapped based on the sensitive land use risk criterion (0.5×10^{-6}) extending 40 metres either side of the pipeline.
- (296) At this time the request to include a fuel transmission pipeline corridor in the Proposed District Plan is not supported on the basis of the information currently available. Risk associated with the fuel transmission pipeline is managed through a suite of other statutory regimes. These include the Health and Safety at Work Act 2015, the Health and Safety in Employment (Pipelines) Regulations 1999, associated Safe Work Instruments, and AS/NZS 2885 – Gas and Liquid Petroleum Pipelines, all administered or overseen by WorkSafe New Zealand. These regimes require pipeline operators to manage external interference (including excavation and building works), maintain pipeline integrity, and establish safety management systems and emergency response procedures. However, their focus is on asset protection and operational safety, rather than the management of land-use exposure risk arising from activities located in proximity to pipelines.
- (297) In other district plans, protection of fuel pipelines is commonly achieved through designations, such as those applying to the Marsden Point to Auckland high-pressure fuel pipeline in the Auckland Unitary Plan. These designations enable the construction, operation, maintenance, and upgrading of pipelines and protect them from direct physical interference. However, designations generally apply only to the designated corridor itself and are not intended to manage land-use activities on adjacent sites, including land-use compatibility or exposure risk.
- (298) While the above regulatory regimes effectively manage pipeline integrity, operational safety, and protection from physical damage, they do not directly manage land use outcomes such as:
- increases in population density near a pipeline; or

- the introduction of sensitive land uses that may be more vulnerable in the event of a pipeline incident.

(299) Accordingly, and similar to the approach taken for significant hazardous facilities, there may be an appropriate role for the PDP to manage land use exposure and compatibility in relation to development occurring near the fuel transmission pipeline. The purpose of such an approach would not be to prohibit development, but to better manage risks to people and communities where development materially increases exposure.

(300) As outlined elsewhere in this report, the Hazardous Substances Risk Management Overlay approach is informed by HIPAP guidance from New South Wales. In 2024, the NSW Department of Planning, Housing and Infrastructure issued the *Guideline for planning proposals near high pressure dangerous goods pipelines*. That guidance indicates that planning controls should:

- be triggered by particular types of development, such as sensitive land uses or proposals resulting in significant population increase;
- focus on risk consideration and assessment, including quantitative risk assessment where appropriate; and
- allow for site-specific design and mitigation responses, rather than restricting land use or applying uniform buffers in all circumstances.

(301) This approach is consistent with the principles underpinning the Hazardous Substances chapter of the PDP.

(302) However, the NSW guideline establishes indicative corridor distances and setbacks based on the NSW planning and development context. While informative, those distances cannot be directly translated to Lower Hutt without site-specific evidence. Accordingly, while it may be appropriate in principle to include a fuel transmission pipeline corridor in the PDP, the evidence currently before Council is insufficient to determine the appropriate spatial extent, thresholds, or regulatory triggers for such a corridor in the Lower Hutt context.

(303) In particular, further information is required from the Fuel Companies on:

- the risk profile of the pipeline as it operates within Lower Hutt, including relevant pipeline characteristics, operating parameters and existing safety controls;
- how that risk profile varies spatially along different sections of the pipeline, particularly where it interfaces with industrial, marina, and residential environments;
- the extent to which the pipeline's risk profile could be reduced through feasible changes to operation or management, such as changes to operating pressure, throughput, product scheduling, physical protection, monitoring, or other safety measures; and
- what corridor distance or alternative planning or operational approach would be proportionate and context-specific, having regard to the predominantly industrial setting and existing zoning outcomes.

(304) Accordingly, at this stage, I recommend that the request to introduce a fuel transmission pipeline corridor into the PDP be rejected as currently sought, noting that the matter could be reconsidered should further technical evidence be provided by the Fuel Companies to support a proportionate and context-appropriate planning response.

Recommendation

(305) Reject the relief sought by the Fuel Companies (471.321) seeking to amend the Hazardous Substances Risk Management Overlay to be based on the sensitive land use risk criterion, and retain the overlay as notified.

(306) Accept the relief sought by Seaview Marina Ltd (F14.46) opposing the Fuel Companies' proposed amendment to the overlay methodology.

(307) Reject the relief sought by the Fuel Companies (471.322) seeking to add a Hutt City Fuel Transmission Pipeline Corridor to the District Plan maps.

(308) Accept the relief sought by Seaview Marina Ltd (F14.47) opposing the introduction of a fuel transmission pipeline corridor.

Section 32AA Assessment

(309) As I am not recommending any amendments to the maps for hazardous substances, a section 32AA assessment is not required.

4 Mechanical issues, minor and consequential amendments

- (310) No Schedule 1, clause 16 (2) of the RMA corrections or minor amendments have been identified for the Hazardous Substances or Contaminated Land chapters. No other consequential amendments have been identified, apart from those contained in the evaluation and recommendations in the previous section of this report.

5 Summary of recommendations

- (311) This report has provided an assessment of submissions received on the PDP related to the Hazardous Substances and Contaminated Land chapters, including associated definitions. The primary amendments to the PDP that I have recommended relate to:
- Amend the introduction of the Hazardous Substances chapter to ensure consistent reference to ‘significant hazardous facilities’ and to add a paragraph explaining the basis and purpose of the Hazardous Substances Risk Management Overlay.
 - Amend Policy HS-P1 by referencing ‘significant hazardous facilities’ and clarifying that different types of risk assessments could be used.
 - Amend the introduction, policies and rules in the Hazardous Substances chapter to confirm that intensification and expansion of existing activities sensitive to hazardous substance risks are to be managed to avoid exposing people to unacceptable risks.
 - Amend the introduction of the Contaminated Land chapter to delete reference to superfluous text on RMA definitions and clarify the description of the National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health.
 - Amend the wording of the objectives and policies of the Contaminated Land chapter to provide clarity.
 - Amend the definition of *Quantitative Risk Assessment* to be more consistent with accepted practice.
 - Amend the definition of *Significant Hazardous Facility* to exclude underground storage of petrol and diesel at service stations and truck stops that complies with approved HSNO Codes of Practice, and the distribution or transmission of petroleum products by pipeline.
- (312) These amendments are set out in full in the chapters in Appendix 1 to this report.

6 Conclusion

- (313) This report has provided an assessment of submissions received in relation to the Hazardous Substances and Contaminated Land chapters and associated definitions.
- (314) Section 3 assesses and provides recommendations on the decisions requested in submissions. I consider that the submissions on these topics should be accepted, accepted in part, or rejected, as set out in my recommendations of this report and in Appendix 2.
- (315) I recommend that provisions be amended as set out in Appendix 1 for the reasons set out in this report.
- (316) I consider that the amended provisions will be efficient and effective in achieving the purpose of the RMA, the relevant objectives of the PDP and other relevant statutory documents, for the reasons set out in the Section 32AA evaluations undertaken in the relevant sections of this report.

7 Attachments

Appendix 1 Recommended amendments to the Proposed District Plan

Appendix 2 Recommended decisions on Submissions on Hazardous Substances and Contaminated Land Chapters and Associated Definitions

Appendix 1: Recommended amendments to the Proposed District Plan

HS — Hazardous Substances

The purpose of the Hazardous Substances chapter is to protect people, communities and the environment from the residual risk of facilities and activities involving the manufacture, use, storage, transportation or disposal of hazardous substances, including significant hazardous facilities. This chapter seeks to manage:

1. Reverse sensitivity ~~effects~~ between existing lawfully established significant hazardous facilities and new ~~or intensified~~ activities sensitive to hazardous substance risks,
2. The residual risk ~~from significant hazardous facilities~~ to public safety, for example, risks to the public beyond the site boundary, and
3. Management of cumulative effects of multiple significant hazardous facilities near each other.

Commented [CN1]: HS1 Minor Correction
Policy Planning team of Hutt City Council (440.3)

Commented [CN2]: Fuel Companies (471.159)

Hazardous substances are controlled by a wide range of legislation and subordinate instruments, the primary piece of legislation being the Hazardous Substances and New Organisms Act 1996. Additional controls are included in the Land Transport Act 1998, Building Act 2004, and Health and Safety at Work (Hazardous Substances) Regulations 2017. In addition, there are also industry standards that provide guidelines to industry participants.

The District Plan manages only the residual risk and cumulative risk to the health and wellbeing of people and communities, and adverse effects on sensitive environments after non-District Plan statutory rules and controls, including any subordinate instruments, in place with respect to hazardous substances have been complied with.

~~For some significant hazardous facilities, where risks have been quantified through quantitative risk assessment work, residual risk is mapped in the District Plan as a Hazardous Substances Risk Management Overlay. In these locations, activities sensitive to hazardous substance risks are managed to avoid unacceptable risk.~~

Commented [CN3]: Fuel Companies (471.159)

While this chapter includes the objectives, policies, and rules that are specific to hazardous substances, the zone chapters and other district-wide chapters of the District Plan, including those that apply overlays across specified areas, set additional objectives, policies and rules that may apply for all or part of the zone. As such, this chapter should be read alongside the zone chapters and other district-wide chapters of the District Plan.

Objectives

HS-O1	Protection from residual risk
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	Protection of existing significant hazardous facilities
Activities sensitive to hazardous substance risks are located where they: <ol style="list-style-type: none">1. Avoid areas exposed to unacceptable residual risk from existing significant hazardous facilities, and2. Do not compromise the operation of existing significant hazardous facilities due to reverse sensitivity effects.	

Commented [CN4]: HS1 Minor Correction
Policy Planning team of Hutt City Council (440.3)

Policies

Hazardous Substances

HS-P1	Location of <u>significant</u> hazardous facilities
<p>Ensure <u>significant hazardous</u> facilities <u>and activities</u> involving the manufacture, use, storage, transportation, or disposal of hazardous substances, <u>including significant hazardous facilities</u>, are appropriately located and managed by:</p> <ol style="list-style-type: none"> 1. Avoiding unacceptable residual risk to human health, people, and communities <u>as determined</u> through the use of a Quantitative Risk Assessment <u>or other acceptable risk assessment process for the proposed activity, having regard to including its-site characteristics</u> and any cumulative risk from other nearby hazardous facilities, 2. Recognising the purpose of the zone in which the proposed activity is located, and the sensitivity of the activities that are enabled in that zone, 3. Locating <u>new</u> significant hazardous facilities outside of sensitive environments, and 4. Locating significant hazardous facilities outside of High Natural Hazard Overlays unless there is an operational need or functional need for the significant hazardous facility to be located in the area and the significant hazardous facility mitigates the risk from natural hazards to people, buildings and infrastructure. 	
HS-P2	Identify areas of unacceptable residual risk
<p>Identify areas <u>where activities are</u> exposed to <u>an</u> unacceptable <u>level of</u> residual risk from existing significant hazardous facilities based on a risk threshold of 1×10^{-6}, and map these areas using the Hazardous Substances Risk Management Overlay.</p>	
HS-P3	Location of activities sensitive to hazardous substance risks
<p>Require activities sensitive to hazardous substance risks to be adequately separated from significant hazardous facilities <u>to by</u>:</p> <ol style="list-style-type: none"> 1. Avoiding <u>new</u> activities sensitive to hazardous substance risks, <u>and the intensification or expansion of existing activities sensitive to hazardous substance risks</u>, locating in areas exposed to unacceptable residual risks from existing significant hazardous facilities, and 2. Minimise reverse sensitivity <u>effects</u> on existing significant hazardous facilities. 	

Commented [CN5]: The Natural Hazards Commission (327.75), Fuel Companies (471.162), Enviro NZ (323.34) and Seaview Marina Ltd (F14.18)

Commented [CN6]: The Fuel Companies (471.163) and Seaview Marina Ltd (F14.19)

Commented [CN7]: The Enviro NZ (323.35), Ministry of Education (399.31) and Fuel Companies (471.164) and Seaview Marina Ltd (F14.20)

Commented [CN8]: HS1 Minor Correction Policy Planning team of Hutt City Council (440.3)

Rules

Note:	
<p>Resource consent may be required under rules in this chapter as well as other chapters. Unless specifically stated, resource consent is required under each relevant rule. The steps to determine the relevant rules and activity status for an activity are set out in the General Approach chapter.</p>	
HS-R1	Additions <u>or</u> alterations <u>or</u> new buildings or structures <u>at</u> to existing significant hazardous facilities
All Zones	<p>1. Activity status: Permitted</p> <p>Where:</p> <ol style="list-style-type: none"> a. The activity does not <u>increase change</u> the risk profile of the significant hazardous facility, as measured from 6 February 2025, and b. There is no more than a 10% increase in the volume of hazardous substances manufactured, used, stored, transported, or disposed of, as measured from 6 February 2025.
All zones	<p>1. Activity status: Restricted discretionary</p> <p>Where:</p> <ol style="list-style-type: none"> a. Compliance is not achieved with HS-R1.1 <p>Matters of discretion are restricted to:</p>

Commented [CN9]: The Fuel Companies (471.165)

Hazardous Substances

	<ol style="list-style-type: none"> 1. The matters in HS-P1: Location of hazardous facilities. 2. The likelihood and consequences of an accident leading to the release or loss of control of hazardous substances, including the design and management of the site to avoid accidents, such as spill containment measures, fire safety and fire water management, emergency management, site drainage and off-site infrastructure (e.g. storm water drainage system, sewer type and capacity) and the disposal of waste containing hazardous substances. 3. Changes to operations and site layout arising from the proposed expansion or upgrading to the facility, including any new or increase in residual risk and/or cumulative risk. 4. Proximity to Separation distances between activities sensitive to hazardous substance risks, sensitive environments, and adjacent hazardous facilities and/or activities, including the number of people potentially at risk from the proposed expansion or upgrading to the facility. 5. The extent to which adverse effects can be avoided, or where avoidance is not possible, remedied or mitigated.
HS-R2	New significant hazardous facilities
Heavy Industrial Zone	<ol style="list-style-type: none"> 1. Activity status: Restricted discretionary Matters of discretion are restricted to: <ol style="list-style-type: none"> 1. The matters in HS-P1: Location of hazardous facilities. 2. The likelihood and consequences of an accident leading to the release or loss of control of hazardous substances, including the design and management of the site to avoid accidents, such as spill containment measures, fire safety and fire water management, emergency management, site drainage and off-site infrastructure (e.g. storm water drainage system, sewer type and capacity) and the disposal of waste containing hazardous substances. 3. Proximity to Adequate separation distances between activities sensitive to hazardous substance risks, sensitive environments, and adjacent hazardous facilities and/or activities. 4. The design and site layout of the activity and its ability to internalise effects within the activity's site. 5. Whether the activity has the potential to compromise the relationship of tangata whenua with their ancestral lands, water, sites, wāhi tapu, and other taonga and if so, the outcomes of any consultation with Mana Whenua. 6. Measures to avoid or manage risks associated with natural hazards, including the potential for sea level rise to impact on the operation of the activity. 7. The extent to which adverse effects can be avoided, or where avoidance is not possible, remedied or mitigated.
General Industrial Zone	<ol style="list-style-type: none"> 2. Activity status: Discretionary
Light Industrial Zone	<ol style="list-style-type: none"> 3. Activity status: Non-complying
Residential Zones	

Commented [CN10]: The Fuel Companies (471.165)

Commented [CN11]: Enviro NZ (323.36), Natural Hazards Commission (327.76) and Fuel Companies (471.166)

Hazardous Substances

<p>Rural Zones</p> <p>Commercial and Mixed Use Zones</p> <p>Open Space and Recreation Zones</p> <p>Special Purpose Zones</p>	
<p>HS-R3</p>	<p>New Activities sensitive to hazardous substance risks within the Hazardous Substances Risk Management Overlay</p>
<p>All zones</p>	<p>1. Activity status: Non-complying</p> <p><u>Where:</u></p> <p><u>a. A new activity sensitive to hazardous substance risks is proposed within the Hazardous Substances Risk Management Overlay; or</u></p> <p><u>b. Additions or alterations to an existing activity sensitive to hazardous substance risks are proposed within the Hazardous Substances Risk Management Overlay, including changes to the scale, intensity, or manner of use, where those additions or alterations would result in:</u></p> <p><u>i. an increase in habitable floor area; or</u></p> <p><u>ii., an increase in the frequency or duration of habitable use of the site, or</u></p> <p><u>iii. an increase in the number of people occupying the site.</u></p>

Commented [CN12]: Enviro NZ (323.37), The Fuel Companies (471.168),and Seaview Marina Ltd (F14.21)

CL — Contaminated Land

The purpose of the Contaminated Land chapter is to protect human health from the potential impacts of use and development of contaminated land.

~~Contaminated land is defined in the Resource Management Act as land that has a hazardous substance in or on it that:~~

- ~~a. Has significant adverse effects on the environment, or~~
- ~~b. Is reasonably likely to have significant adverse effects on the environment.~~

~~Hazardous substances are defined in the Hazardous Substances and New Organisms Act 1996 as substances:~~

- ~~a. With 1 or more of the following intrinsic properties:
 - ~~i. Explosiveness,~~
 - ~~ii. Flammability,~~
 - ~~iii. A capacity to oxidise,~~
 - ~~iv. Corrosiveness,~~
 - ~~v. Toxicity (including chronic toxicity),~~
 - ~~vi. Ecotoxicity, with or without bioaccumulation, or~~~~
- ~~b. Which on contact with air or water (other than air or water where the temperature or pressure has been artificially increased or decreased) generates a substance with any 1 or more of these properties.~~

The identification, management and remediation of contaminated land can enable future use and development of the land and can reduce potential impacts to the health of people, communities and the natural environment.

Roles of Hutt City Council, Wellington Regional Council and Ministry for the Environment

Hutt City Council, Wellington Regional Council and the Ministry for the Environment all play a role in the management of contaminated land.

The Ministry for the Environment maintains the Hazardous Activities and Industries List (the HAIL). This is a list of activities and industries that are likely to contaminate land through the use, storage or disposal of hazardous substances.

The Wellington Regional Council is responsible for the investigation of land for the purposes of identifying and monitoring contaminated land. As part of this role, Wellington Regional Council administers the Selected Land Use Register (SLUR). This is a regional database of sites that have or may have been used for activities and industries listed in the HAIL. Wellington Regional Council is also responsible for controlling discharges of contaminants into or onto land, air, or water and discharges of water into water.

Hutt City Council is responsible for controlling any actual or potential effects of the use, development, or protection of land for the purpose of preventing and mitigating any adverse effects of the development, subdivision or use of contaminated land. In performing this function, Hutt City Council uses the HAIL and SLUR to identify and record information on contaminated land.

National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health

The Resource Management (National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health) Regulations 2011 (NESCS) is a framework of rules

Commented [CN1]: Fuel Companies (471.152), Wellington Regional Council (F38.80)

Contaminated Land

that address activities on sites with contaminated or potentially contaminated land. The standard applies to the following activities on land:

- removing or replacing a fuel storage system;
- sampling soil;
- disturbing soil;
- subdividing land; and
- changing the use of land.

The NES-CS determines whether these activities are permitted, require a controlled or restricted discretionary resource consent, or are prohibited, based on the level of risk to human health.

If a person wants to carry out activities on land where an activity on the HAIL has occurred, the proposed activity must comply with the NESCS.

There are no district plan rules that duplicate or override the NES-CS. Instead, this chapter contains an objective and policies that give guidance for to guide the assessment of resource consent applications required under the NESCS and to ensure that land-use decisions appropriately consider contaminated land, its effects, and its suitability for current or proposed uses.

Objective

CL-O1	Safety of contaminated land
Contaminated and potentially contaminated land <u>is are safe for human health and their its</u> intended use.	

Commented [CN2]: Fuel Companies (471.152), Wellington Regional Council (F38.80)

Commented [CN3]: Fuel Companies (471.153) and WRC (F38.81)

Policies

CL-P1	Identification of contaminated and potentially contaminated land
Identify contaminated land and potentially contaminated land prior to subdivision, change of use, or development by: <ol style="list-style-type: none">1. Working with Wellington Regional Council to maintain the Selected Land Use Register, and2. Requiring the investigation of contaminant risks for sites <u>with where there is evidence, a history, or reasonable potential</u> of land use or activity that could have resulted in contamination of soil, <u>including activities listed on the Hazardous Activities and Industries List (HAIL).</u>	

Commented [CN4]: WRC (452.71), The Fuel Companies (471.154), and WRC (F38.82),

CL-P2	Management of contaminated land
<u>Manage contaminated and potentially contaminated land so that it is safe for</u> Minimise the risk to human health and suitable for its intended use from the subdivision, change of use, removal or replacement of fuel storage systems, or sampling or disturbing soil of contaminated land by: <ol style="list-style-type: none">1. Encouraging a <u>Applying</u> best practice approach to site management <u>measures where necessary for sites with elevated contaminant levels, which may include</u> remediation, containment, and/or the disposal of contaminated soil, <u>and/or pathway or receptor controls,</u> and2. Ensuring <u>the land is safe for its intended use subdivision, change of use, or development does not proceed unless contaminant risks have been appropriately managed.</u>	

Commented [CN5]: The Fuel Companies (471.155) and Wellington Regional Council (FS38.83)

CL-P3	Benefit of remediating contaminated land
Recognise the benefits of remediation and site management of contaminated and potentially	

Contaminated Land

contaminated land in enabling development opportunities that can contribute to social, economic, and health benefits for people and communities.

Rules

Note:

While there are no rules in this chapter, resource consent may be required under the Resource Management (National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health) Regulations 2011.

Appendix 2: Recommended decisions on Submissions on Hazardous Substances and Contaminated Land Chapters and Associated Definitions

Appendix 2 – S42A Officer Recommended Decisions on Submissions

Submitter	Sub #	SP #	Support/oppose	Requested Relief	Recommendation
Winstone Wallboards Ltd	31	29	Multiple	Seeks to clarify how risk profile is determined and what change in risk profile would trigger consent Or alternate relief Delete conditions from rule (so always permitted)	Accept in part
Enviro NZ	323	003	Support	Retain definition as notified [inferred]	Accept
Enviro NZ	323	018	Support	Retain definition as notified [inferred]	Accept
Enviro NZ	323	033	Support	Retain as notified	Accept
Enviro NZ	323	034	Support in part	Amend HS-P1.3 as "Locating significant hazardous facilities outside of <u>zones permitting activities sensitive to hazardous substance risks sensitive environments</u> , and"	Accept in part
Enviro NZ	323	035	Support	Retain as notified	Accept in part
Enviro NZ	323	036	Support	Retain definition as notified [inferred]	Accept in part
Enviro NZ	323	037	Support	Retain definition as notified [inferred]	Accept in part
The Natural Hazards Commission	327	75	Support	Retain as notified	Accept in part
The Natural Hazards Commission	327	76	Support	Retain as notified	Accept in part
Ministry of Education	399	3	Support	Retain definition as notified	Accept
Ministry of Education	399	30	Support	Retain objective as notified	Accept
Ministry of Education	399	31	Support	Retain policy as notified	Accept in part

Fire and Emergency New Zealand	374	5	Support	Retain as notified	Accept
Fire and Emergency New Zealand	374	10	Support in part	<p>Amend definition as follows:</p> <p>"Means any facility which involves one or more of the following activities:</p> <p>1. <u>Use and Manufacturing of hazardous substances (including industries using or manufacturing agrochemicals, fertilisers, acids/alkalis, solvents or paints),</u></p> <p>...</p> <p>16. <u>Asphalt/bitumen manufacture or storage.</u></p> <p><u>17. Laboratories.</u></p> <p><u>18. Mainfreight.</u></p> <p><u>19. Ports.</u></p> <p><u>20. Universities.</u></p> <p><u>21. Fine chemical users or producers.</u></p> <p><u>17. The storage and/or use of radioactive materials or radiation sources.</u></p> <p><u>18. The storage and/or treatment of hazardous substances at waste disposal, reuse or recycling facilities (including electronic waste and items containing disposal batteries) or the stockpiling of hazardous substances awaiting reuse, recycling, or treatment at such facilities).</u></p> <p><u>The following activities are not considered to be significant hazardous facilities:</u></p> <ul style="list-style-type: none"> <u>• the incidental use and storage (including for disposal) of hazardous substances for emergency service activities."</u> 	Reject
Waste Management NZ Ltd	F39	7	Oppose	Oppose submission point 374.10	Accept

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FENZ	374	36	Support in part	Amend rule as follows: " 1. Activity status: Permitted Where: ... c. <u>Where the volume of hazardous substances on-site is to be increased under b., the facility has a proportionate increase in spill containment volume and fire prevention materials.</u> "	Reject
WRC	452	71		Amend CL-P1 as follows: Identify contaminated land and potentially contaminated land prior to subdivision, change of use, or development by: 1. Working with Wellington Regional Council to maintain the Selected Land Use Register, and 2. Requiring the investigation of contaminant risks for sites with a history of land use or activity that could have resulted in contamination of soil. 3. <u>If a site has not been identified on the Select Land Use Register, a Preliminary Site Investigation must be undertaken, to determine if a HAIL activity has occurred onsite.</u>	Accept in part
Z Energy Limited	468	2e	Support	Retain overlay as notified	Accept
Z Energy Limited	468	3e	Support	Retain overlay as notified	Accept
Z Energy Limited	468	4e	Support	Retain overlay as notified	Accept
Z Energy Limited	468	10b	Support	Retain definition as notified	Accept

BP Oil New Zealand Ltd, Mobil Oil New Zealand Ltd and Z Energy Ltd (the Fuel Companies)	471	2	Support	Retain as notified	Accept
Seaview Marina Ltd	F14	11	Oppose	Oppose submission point 471.2	Reject in part
BP Oil New Zealand Ltd, Mobil Oil New Zealand Ltd and Z Energy Ltd (the Fuel Companies)	471	20	Support	Retain as notified	Accept
BP Oil New Zealand Ltd, Mobil Oil New Zealand Ltd and Z Energy Ltd (the Fuel Companies)	471	25	Support	Retain as notified	Accept
BP Oil New Zealand Ltd, Mobil Oil New Zealand Ltd and Z Energy Ltd (the Fuel Companies)	471	26	Support	Retain as notified	Accept

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BP Oil New Zealand Ltd, Mobil Oil New Zealand Ltd and Z Energy Ltd (the Fuel Companies)	471	27	Support	Retain as notified	Accept
BP Oil New Zealand Ltd, Mobil Oil New Zealand Ltd and Z Energy Ltd (the Fuel Companies)	471	67	Support in part	Replace the term “Hazardous Substance Risk Management Overlay” with “Hazardous Facility Risk Management Overlay” throughout the Plan and amend the definition as follows: "means the area shown in the planning maps as the Hazardous Substances Facility Risk Management Overlay"	Accept
BP Oil New Zealand Ltd, Mobil Oil New Zealand Ltd and Z Energy Ltd (the Fuel Companies)	471	73	Oppose in part	Amend the definition of “Quantitative risk assessment” as follows: "in relation to risks from hazardous substances, means a risk assessment used to systematically calculate the risks from hazardous events for a significant hazardous facility. Involves predicting the size of consequences associated with a hazard, and the frequency at which a release of the hazard may be expected to occur. The risk assessment should account for both the consequences (effects) and likelihood (probability) of a hazardous event occurring. These aspects are then combined in order to obtain a modelled risk profile for the facility, which can be expressed in terms of risk criteria relevant to the facility and receiving environment, numerical values for risk, such as risk of fatality."	Accept
BP Oil New Zealand Ltd, Mobil Oil New Zealand Ltd	471	76	Support	Amend the definition of “residual risk” as follows: "means, in relation to the Hazardous Substances chapter, the level of any remaining risk of an adverse effect after other industry controls,	Accept

and Z Energy Ltd (the Fuel Companies)				legislation and regulations, including the Hazardous Substances and New Organisms Act 1996, the Land Transport Act 1998, the Health and Safety at Work (Hazardous Substances) Regulations 2017 and any other subordinate instruments, and regional plans have been complied with."	
BP Oil New Zealand Ltd, Mobil Oil New Zealand Ltd and Z Energy Ltd (the Fuel Companies)	471	80	Support in part	<p>Amend the definition of "significant hazardous facility" to add a note as follows:</p> <p>means any facility which involves one or more of the following activities:</p> <ol style="list-style-type: none"> 1. Manufacturing of hazardous substances (including industries manufacturing agrochemicals, fertilisers, acids/alkalis or paints), ... 16. Asphalt/bitumen manufacture or storage. <p><u>This definition does not apply to:</u></p> <ol style="list-style-type: none"> 1. <u>The underground storage of petrol and diesel at service stations and truck stops that is undertaken in accordance with HSNOCOP 44 Below Ground Stationary Container Systems for Petroleum – Design and Installation and HSNOCOP 45 Below Ground Stationary Containers Systems for Petroleum – Operation.</u> 2. <u>The distribution or transmission by pipelines of petroleum products.</u> 	Accept
BP Oil New Zealand Ltd, Mobil Oil New Zealand Ltd and Z Energy Ltd (the Fuel Companies)	471	152	Support in part	<p>Replace the introduction of the Contaminated Land chapter with the following:</p> <p><u>The purpose of the Contaminated Land chapter is to ensure that contaminated land is identified and managed so that it is safe for human health and its intended use.</u></p> <p><u>Hutt City Council, Wellington Regional Council and the Ministry for the Environment all play a role in managing contaminated land:</u></p> <ul style="list-style-type: none"> • <u>The Ministry for the Environment maintains the Hazardous Activities and Industries List (HAIL). This is a list of activities and industries that are likely to contaminate land through the use, storage or disposal of</u> 	Accept in part

				<p>hazardous substances.</p> <ul style="list-style-type: none"> Wellington Regional Council is responsible for the investigation of land for the purposes of identifying and monitoring contaminated land. As part of this role, Wellington Regional Council administers the Selected Land Use Register (SLUR). This is a regional database of sites that have or may have been used for activities and industries listed in the HAIL. Wellington Regional Council is also responsible for controlling discharges of contaminants into or onto land, air, or water and discharges of water into water. Hutt City Council is responsible for controlling any actual or potential effects of the use, development, or protection of land for the purpose of preventing and mitigating any adverse effects of the development, subdivision or use of contaminated land. In performing this function, Hutt City Council uses the HAIL and SLUR to identify and record information on contaminated land. <p>The Resource Management (National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health) Regulations 2011 (NESCS) is a framework of rules which regulate the following activities on contaminated or potentially contaminated land:</p> <ul style="list-style-type: none"> removing or replacing a fuel storage system; sampling soil; disturbing soil; changing use; and subdividing. <p>The NESCS directs the requirement for resource consent or otherwise in relation to these activities. There are no independent or additional contaminated land rules in the District Plan. This chapter provides a policy framework for assessing applications which require resource consent under the NESCS.</p>	
WRC	F38	80	Oppose	Oppose submission point 471.152	Accept

BP Oil New Zealand Ltd, Mobil Oil New Zealand Ltd and Z Energy Ltd (the Fuel Companies)	471	153	Support in part	Amend CL-O1 as follows: "Contaminated and potentially contaminated land is are safe for human health and its their intended use."	Accept
WRC	F38	81	Support	Support submission point 471.153	Accept
BP Oil New Zealand Ltd, Mobil Oil New Zealand Ltd and Z Energy Ltd (the Fuel Companies)	471	154		Amend CL-P1 as follows: Identify contaminated land and potentially contaminated land prior to subdivision, change of use, or development by: 1. Working with Wellington Regional Council to maintain the Selected Land Use Register, and 2. Requiring the investigation of contaminant risks, <u>where necessary</u> , for sites with a history of land use or activity that could have resulted in contamination of soil.	Accept in part
WRC	F38	82	Oppose	Oppose submission point 471.154	Accept in part
BP Oil New Zealand Ltd, Mobil Oil New Zealand Ltd and Z Energy Ltd (the Fuel Companies)	471	155	Accept in part	Amend CL-P2 as follows: Minimise the risk to human health from the subdivision, change of use, removal or replacement of fuel storage systems, or sampling or disturbing soil of contaminated land by: 1. Encouraging a best practice approach to site management for sites with elevated contaminant levels, which may include remediation, containment, and/or the disposal of contaminated soil, and 2. Ensuring the land is safe for its intended use. Ensure that the subdivision, change of use or development of contaminated and potentially contaminated land is managed (such as remediation, pathway controls or receptor controls where necessary) so that it is safe for human health and its intended use.	Accept in part
WRC	F38	83	Oppose	Oppose submission point 471.155	Accept in part

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BP Oil New Zealand Ltd, Mobil Oil New Zealand Ltd and Z Energy Ltd (the Fuel Companies)	471	156	Support	Retain as notified	Accept
BP Oil New Zealand Ltd, Mobil Oil New Zealand Ltd and Z Energy Ltd (the Fuel Companies)	471	157	Support	Retain as notified	Accept
BP Oil New Zealand Ltd, Mobil Oil New Zealand Ltd and Z Energy Ltd (the Fuel Companies)	471	158	Support in part	Amend to replace references to “sensitive environments” in the Hazardous Substance chapter with the defined term “specified overlay”, as noted in the relief sought in the submitter’s other submission points on the chapter.	Reject
BP Oil New Zealand Ltd, Mobil Oil New Zealand Ltd and Z Energy Ltd (the Fuel Companies)	471	159	Support in part	Amend the introduction of the Hazardous Substances chapter as follows: "The purpose of the Hazardous Substances chapter is to protect people, communities and the environment from the residual risk of facilities and activities involving the manufacture, use, storage, transportation or disposal of hazardous substances, including significant hazardous facilities. This chapter seeks to manage: 1. Reverse sensitivity effects between existing lawfully established significant hazardous facilities and new <u>or intensified</u> activities sensitive	Accept in part

				<p>to hazardous substance risks,</p> <p>2. The residual risk <u>from significant hazardous facilities</u> to public safety, for example, risks to the public beyond the site boundary, and</p> <p>3. Management of cumulative effects of multiple significant hazardous facilities near each other.</p> <p>...</p> <p>The District Plan manages only the residual risk and cumulative risk to the health and wellbeing of people and communities, and adverse effects on <u>sensitive environments</u> a specified overlay after non-District Plan statutory rules and controls, including any subordinate instruments, in place with respect to hazardous substances have been complied with.</p> <p>..."</p>	
Seaview Marina	F14	6	Oppose	Oppose submission point 471.159	Reject
BP Oil New Zealand Ltd, Mobil Oil New Zealand Ltd and Z Energy Ltd (the Fuel Companies)	471	160	Support	Retain as notified	Accept
BP Oil New Zealand Ltd, Mobil Oil New Zealand Ltd and Z Energy Ltd (the Fuel Companies)	471	161	Support	Retain as notified	Accept
Seaview Marina	F14	17	Oppose	Oppose submission point 471.161	Reject

BP Oil New Zealand Ltd, Mobil Oil New Zealand Ltd and Z Energy Ltd (the Fuel Companies)	471	162	Oppose	Amend Policy HS-P1 as follows: "Ensure significant hazardous facilities and activities involving the manufacture, use, storage, transportation, or disposal of hazardous substances, including significant hazardous facilities , are appropriately located and managed by: 1. Avoiding unacceptable residual risk to human health, people, and communities as determined through the use of a Quantitative Risk Assessment or other acceptable risk assessment process for the proposed activity , having regard to including its site characteristics and any cumulative risk from other nearby hazardous facilities. 2. Recognising the purpose of the zone in which the proposed activity is located, and the sensitivity of the activities that are enabled in that zone, 3. Locating new significant hazardous facilities outside of sensitive environments a specified overlay, and ..."	Accept in part
Seaview Marina	F14	18	Oppose	Oppose submission point 471.162	Reject
BP Oil New Zealand Ltd, Mobil Oil New Zealand Ltd and Z Energy Ltd (the Fuel Companies)	471	163	Support in part	Amend Policy HS-P2 to clarify the type of activities that are considered to be subject to an unacceptable level of risk within the 1 x 10 ⁻⁶ contour around a SHF. This could be by making changes along the following lines: "Identify areas where activities are exposed to an unacceptable level of residual risk from existing significant hazardous facilities based on a risk threshold of 1 x 10⁻⁶ , and map these areas using the Hazardous Substances Risk Management Overlay or a pipeline corridor overlay. "	Accept in part
Seaview Marina	F14	19	Oppose	Oppose submission point 471.163	Accept in part

BP Oil New Zealand Ltd, Mobil Oil New Zealand Ltd and Z Energy Ltd (the Fuel Companies)	471	164	Support in part	Amend HS-P3 as follows: Require activities sensitive to hazardous substance risks to be adequately separated from significant hazardous facilities to by: 1. <u>Avoiding new activities sensitive to hazardous substance risks, and the intensification or expansion of existing activities sensitive to hazardous substance risks,</u> locating in areas exposed to unacceptable residual risks from existing significant hazardous facilities, and 2. Avoiding <u>Minimise</u> reverse sensitivity effects on existing significant hazardous facilities.	Accept in part
Seaview Marina	F14	20	Oppose	Oppose submission point 471.164	Accept in part
BP Oil New Zealand Ltd, Mobil Oil New Zealand Ltd and Z Energy Ltd (the Fuel Companies)	471	165	Support in part	<i>Amend HS-R1 as follows:</i> <i>"HS-R1 Additions, or alterations or new buildings or structures at to existing significant hazardous facilities</i> <i>All Zones</i> <i>1. Activity status: Permitted</i> <i>Where:</i> <i>a. The activity does not increase change the risk profile of the significant hazardous facility, as measured from 6 February 2025, and</i> <i>b. There is no more than a 10% increase in the volume of hazardous substances manufactured, used, stored, transported, or disposed of, as measured from 6 February 2025.</i> <i>All zones</i>	Accept t

				<p>1. Activity status: Restricted discretionary Where:</p> <p>a. Compliance is not achieved with HS-R1.1 Matters of discretion are restricted to:</p> <p>...</p> <p>4. Proximity to Separation distances between activities sensitive to hazardous substance risks, sensitive environments <u>a specified overlay</u>, and adjacent hazardous facilities and/or activities, including the number of people potentially at risk from the proposed expansion or upgrading to the facility.</p> <p>..."</p>	
BP Oil New Zealand Ltd, Mobil Oil New Zealand Ltd and Z Energy Ltd (the Fuel Companies)	471	166	Support in part	<p>Amend HS-R2 as follows:</p> <p>HS-R2 New significant hazardous facilities <i>Heavy Industrial Zone</i></p> <p>1. Activity status: Restricted discretionary Where:</p> <p>a. Compliance is not achieved with HS-R1.1 Matters of discretion are restricted to:</p> <p>[...]</p> <p>3. Proximity to Adequate separation distances between activities sensitive to hazardous substance risks, sensitive environments <u>a specified overlay</u>, and adjacent hazardous facilities and/or activities.</p> <p>[...]</p>	Accept in part
BP Oil New Zealand Ltd, Mobil Oil New Zealand Ltd and Z Energy	471	167	Oppose in part	<p>Amend HS-R2 as follows:</p> <p>HS-R2 New significant hazardous facilities <i>Light Industrial Zone</i> <i>Residential Zones</i></p>	Reject

Ltd (the Fuel Companies)				<p><i>Rural Zones</i> <i>Commercial and Mixed Use Zones</i> <i>Open Space and Recreation Zones</i> <i>Special Purpose Zones</i> Activity status: Non-complying Discretionary</p>	
BP Oil New Zealand Ltd, Mobil Oil New Zealand Ltd and Z Energy Ltd (the Fuel Companies)	471	168	Support	<p>Amend HS-R3 as follows:</p> <p><u>HS-R3 New activities sensitive to hazardous substance risks or their expansion or intensification, within the Hazardous Substances Risk Management Overlay and the Hutt City fuel transmission pipeline corridor</u></p> <p><i>All zones</i> 1. Activity status: Non-complying</p>	Accept in part
Seaview Marina Ltd	F14	21	Oppose	Oppose submission point 471.168	Accept in part
BP Oil New Zealand Ltd, Mobil Oil New Zealand Ltd and Z Energy Ltd (the Fuel Companies)	471	321	Oppose in part	Amend the Hazardous Substance Risk Management Overlay to be based on the sensitive land use criteria risk contours (1×10^{-6}) rather than the residential land use criteria risk contours (1×10^{-6}) (shown in Attachment A of the submission).	Reject
Seaview Marina Ltd	F14	46	Oppose	Oppose submission point 471.321	Accept
BP Oil New Zealand Ltd, Mobil Oil New Zealand Ltd and Z Energy Ltd (the Fuel Companies)	471	322	Oppose (requesting new provision)	Add a "Hutt City Fuel Transmission Pipeline Corridor" to the District Plan maps, located based on the sensitive land use criteria risk contours (0.5×10^{-6}) of the Hutt City fuel transmission pipeline, being 40m either side of the pipeline (shown in Attachment B of the submission).	Reject

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Seaview Marina Ltd	F14	47	Oppose	Oppose submission point 471.322	Accept
Clarus	474	9	Support	Retain definition as notified	Accept
Clarus	474	58	Support	Retain chapter as notified	Accept in part
Clarus	474	59	Support	Retain chapter as notified	Accept