

# SECTION 32 REPORT - DRAFT

## Hazardous Substances

May 2022

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## 1 Executive summary

There are activities within our District that use Hazardous Substances, these may pose a potential threat to the health and safety of our communities and the natural environment. Hazardous Substances are defined in the Hazardous Substances and New Organisms Act 1996 (**HSNO Act**) and include substances with radioactive properties or high biological oxygen demand. Substances fall within the definition if they have certain hazardous properties such as explosiveness, flammability or corrosiveness (among other factors) and must be managed, stored, used, transported and disposed of in a safe and secure manner. Hazardous Substances are currently controlled in Chapter 12.8 of the Operative District Plan (**ODP**).

The proposed management approach in the Proposed Far North District Plan (**PDP**) for the Hazardous Substances chapter includes rules and standards that:

- Enable the maintenance, repair and alteration of a Significant Hazardous Facility (SHF) to occur as a permitted activity provided there is no increase in residual risks.
- Control the location of new SHF in relation to zones - permitted activity in Heavy Industrial zone, discretionary activity in Light Industrial zone, Rural Production zone, and Ngawha Innovation and Enterprise Park zone, non-complying activity in all other zones - subject to compliance with certain standards (where applicable).
- Require separation distances between new SHF and existing sensitive activities, and between new sensitive activities and established SHF.
- Require SHF to avoid locating in sensitive environments (areas with natural, heritage or cultural value, subject to natural hazards etc.).

The main changes to the overall proposed management approach include:

- Changes to regulation in response to Resource Management Act 2017 amendments
- Introduction of definitions for 'sensitive activities' and 'significant hazardous facilities'
- Provisions that align with the 'hybrid approach' of the PDP that focuses more on activity-based rules compared to the effects-based approach of the ODP.

## 2 Introduction and Purpose

### 2.1 Purpose of report

This report provides an evaluation undertaken by the Far North District Council (**Council**) of the proposed district plan provisions for the Hazardous Substances chapter in the Proposed Far North District Plan (**PDP**). This evaluation report is required under section 32 of the Resource Management Act 1991 (**RMA**).

Section 32 of the RMA requires Councils to examine whether the proposed objectives are the most appropriate to achieve the purpose of the RMA and whether the provisions (i.e. policies, rules and standards) are the most appropriate way to achieve the objectives. This evaluation must identify and assess environmental, economic, social, and cultural effects, benefits and costs anticipated from the implementation of the provisions. Section 32 evaluations represent an on-going process in RMA plan development. A further evaluation under section 32AA of the RMA is expected throughout the review process in response to submissions received following notification of the PDP.

### 2.2 Overview of topic

This section 32 evaluation report relates to the provisions in the PDP relating to the management of Hazardous Substances. The 2017 amendments to the RMA removed the explicit function of local

authorities to control the adverse effects of the storage, use, disposal and transportation of Hazardous Substances. The intent of these amendments is so controls on Hazardous Substances in district plans are only used where the risks and adverse effects from Hazardous Substances are not adequately addressed by other legislation, including the Hazardous Substances and New Organisms Act 1996 (**HSNO Act**).

The proposed management approach for hazardous substances in the PDP has therefore changed from the ODP, which is a prescriptive approach using the Hazardous Facility Screening Procedure. The proposed approach in the PDP focuses on two key matters:

- Addressing the risks associated with ‘significant hazardous facilities’ on both sensitive activities and sensitive environments.
- Managing reverse sensitivity effects on ‘significant hazardous facilities’ caused by sensitive activities locating in close proximity to existing facilities.

These two matters are primarily addressed by controlling the location of ‘significant hazardous facilities’, ensuring adequate separation distances between significant hazardous facilities and sensitive activities and environments and managing the ‘residual risks’ of hazardous substances.

## 3 Statutory and Policy Context

### 3.1 Resource Management Act 1991

The **Section 32 Overview Report for the PDP** provides a summary of the relevant statutory requirements in the RMA relevant to the PDP. This section provides a summary of the matters in Part 2 of the RMA (purpose and principles) of direct relevance to the management of Hazardous Substances.

Section 74(1) of the RMA states that district plans must be prepared in accordance with the provisions of Part 2. The purpose of the RMA is the sustainable management of natural and physical resources which is defined in section 5(2) of the RMA as:

*“...sustainable management means managing the use, development and protection of natural and physical resources in a way, or at a rate, which enables people and communities to provide for their social, economic and cultural wellbeing, and for their health and safety while –*

- (a) Sustaining the potential of natural and physical resources (excluding minerals) to meet the reasonably foreseeable needs of future generations; and*
- (b) Safeguarding the life-supporting capacity of air, water, soil, and ecosystems; and*
- (c) Avoiding, remedying, or mitigating any adverse effects of activities on the environment.”*

To achieve the purpose of the RMA, all those exercising functions and powers under the RMA are required to:

- Recognise and provide for the matters of national importance identified in section 6
- Have particular regard to a range of other matters in section 7
- Take into account the principles of the Treaty of Waitangi in section 8 of the RMA.

The following section 6 matters are directly relevant to the management of Hazardous Substances:

- (a) the preservation of the natural character of the coastal environment (including the coastal marine area), wetlands, and lakes and rivers and their margins, and the protection of them from inappropriate subdivision, use, and development:*
- (b) the protection of outstanding natural features and landscapes from inappropriate subdivision, use, and development:*
- (c) the protection of areas of significant indigenous vegetation and significant habitats of indigenous fauna:*
- (d) ...*
- (e) the relationship of Maori and their culture and traditions with their ancestral lands, water, sites, waahi tapu, and other taonga:*
- (f) the protection of historic heritage from inappropriate subdivision, use, and development:*
- (g) the management of significant risks from natural hazards.*

Significant hazardous facilities have the potential to impact on these section 6 matters. Therefore, the PDP includes provisions to ensure these facilities are not located within these sensitive environments.

The following section 7 matters are directly relevant to the management of Hazardous Substances:

- (b) the maintenance and enhancement of amenity values:*
- (c) intrinsic values of ecosystems:*
- (e) maintenance and enhancement of the quality of the environment:*

Significant hazardous facilities pose risks to amenity values, ecosystem health and the quality of the environment if not appropriately sited and managed. Therefore, the PDP includes controls on the proximity of significant hazardous facilities to sensitive activities and environments.

## 3.2 Higher order planning instruments

Section 75(3) of the RMA requires district plans to give effect to higher order planning instruments - National Policy Statements (**NPS**), the New Zealand Coastal Policy Statement (**NZCPS**), National Planning Standards (**Planning Standards**), and the relevant Regional Policy Statement (**RPS**). The **Section 32 Overview Report** provides a more detailed summary of the relevant RMA higher order planning instruments relevant to the PDP. The sections below provide an overview of provisions in higher order planning instruments directly relevant to the management of Hazardous Substances.

### 3.2.1 National Planning Standards

Section 75(3)(ba) of the RMA requires that district plans give effect to Planning Standards. The Planning Standards were gazetted in April 2019. The purpose of the Planning Standards is to assist in achieving the purpose of the RMA and improve consistency in the structure, format and content of RMA plans.

District-wide Matters Standard 7.12 states that if provisions relating to Hazardous Substances are addressed, they must be located in a chapter titled 'Hazardous Substances' under the 'Hazards and risks' heading. The Planning Standards state that this may address the following matters:

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

The Planning Standards include a definition of 'Hazardous Substances', which is the same as the definition of Hazardous Substances in section 2 of the RMA.

### 3.2.2 National Policy Statements

Section 75(3)(a) of the RMA requires that district plans give effect to any NPS. There are no NPS's that are directly relevant to the management of Hazardous Substances or include specific provisions relating Hazardous Substances. However, the following NPS's are indirectly relevant:

- The NZCPS 2010, which seeks to manage the adverse effects of activities in the Coastal Environment and protect the values of the Coastal Environment.
- The National Policy Statement on Freshwater Management 2020, which seeks to maintain and improve the health and well-being of water bodies and freshwater ecosystems.

Hazardous substances can have adverse effects on the Coastal Environment, water bodies and freshwater ecosystems if not appropriately controlled and managed. Therefore, the PDP includes proposed provisions to ensure significant hazardous facilities are not located within, and are setback from, these sensitive environments.

### 3.2.3 National Environmental Standards

Section 44 of the RMA requires local authorities to recognise National Environmental Standards (**NES**) by ensuring plan rules do not conflict or duplicate with provisions in a NES. There are no NES's directly relevant to the management of Hazardous Substances.

### 3.2.4 Regional Policy Statement for Northland

Section 75(3)(c) of the RMA requires district plans to 'give effect' to any RPS. The RPS was made operative on 14 June 2018. The RPS was prepared prior to the 2017 amendments to the RMA, which removed the explicit functions of regional councils and territorial authorities to manage Hazardous Substances. The RPS states that Hazardous Substances are not a regionally significant issue for the RPS to address and the provisions in the RPS relating to hazardous substances are limited to those associated with Natural Hazards. The table below outlines the provisions in the RPS that are directly relevant to the management of Hazardous Substances.

Table 1: Relevant provisions in Northland RPS.

Northland RPS	
<b>7.1.2 Policy</b>	<p>New subdivision and land use within 10-year and 100- year flood hazard areas</p> <p>New subdivision, built development (including wastewater treatment and disposal systems), and land use change may be appropriate within 10-year and 100-year flood hazard areas provided all of the following are met:</p> <p>(a) Hazardous substances will not be inundated during a 100-year flood event....</p>
<b>7.1.3 Policy</b>	<p>New subdivision, use and development within areas potentially affected by coastal hazards (including high risk coastal hazard areas)</p> <p>Within areas potentially affected by coastal hazards over the next 100 years (including high risk coastal hazard areas), the hazard risk associated with new use and development will be managed so that:</p> <p>... (g) Mechanisms are in place for the safe storage of hazardous substances.</p>

In summary, these RPS policies require the PDP to control Hazardous Substances in areas subject to flooding and Coastal Hazards. However, it is important to emphasise that that these policies were prepared prior to the 2017 RMA amendments that removed the explicit function of local authorities to manage Hazardous Substances. Imposing controls on all Hazardous Substances and safe storage of substances within areas subject to flooding and coastal hazards will duplicate controls in the HSNO Act and be inconsistent with the procedural principles in section 18A of the RMA.

### 3.3 Regional Plan for Northland

Section 75(4)(b) of the RMA states that any district plan must not be inconsistent with a regional plan for any matter stated in section 30(1) of the RMA. The operative Northland Regional Plans and proposed Northland Regional Plan are summarised in the **Section 32 Overview Report**. The table below provides an overview of provisions in the proposed Northland Regional Plan (appeals version) that are directly relevant to the management of hazardous substances in the PDP.

Table 2: Relevant provisions in Proposed Northland Regional Plan.

Proposed Northland Regional Plan (Appeals Version)	
<b>Objective F.1.14</b>	<p><i>Hazardous substances and contaminated land</i></p> <p>Protect human health, and minimise the risk to the environment, from:</p> <ol style="list-style-type: none"> <li>1) discharges of hazardous substances, and</li> <li>2) discharges of contaminants from contaminated land</li> </ol>
<b>Policy D.4.6</b>	<p><i>Discharge of hazardous substances to land or water</i></p> <ol style="list-style-type: none"> <li>1) Where a substance is approved under the Hazardous Substances and New Organisms Act 1996 to be discharged to land or water, good management practices must be used to avoid, as far as practicable, accidental spillages and adverse effects on: <ol style="list-style-type: none"> <li>a) non-target organisms, and</li> <li>b) the use and consumption of water by humans or livestock, and</li> </ol> </li> <li>2) where a substance is not approved under the Hazardous Substances and New Organisms Act 1996 to be applied to land or into water, activities involving the use, storage or disposal of those hazardous substances must be undertaken using the best practicable options to: <ol style="list-style-type: none"> <li>a) as a first priority, avoid a discharge (including accidental spillage) of the hazardous substance onto land or into water, including reticulated stormwater systems, and</li> </ol> </li> </ol>

	b) as a second priority, ensure, where there is a residual risk of a discharge of the hazardous substance, including any accidental spillage, it is contained on-site and does not enter surface water bodies, groundwater or stormwater systems.
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In summary, the Proposed Northland Regional Plan provisions focus on controlling the use of hazardous substances to manage adverse effects on waterbodies, land, and air, which the PDP provisions are consistent with. The Proposed Northland Regional Plan also includes a number of rules that simply contain conditions that hazardous substances are used as approved by the EPA under the HSNO Act.

### 3.4 Iwi and Hapū Environmental Management Plans

When preparing and changing district plans, Section 74(2A) of the RMA requires Council to take into account any relevant planning document recognised by an iwi authority and lodged with the territorial authority, to the extent that its content has a bearing on the resource management issues of the district. At present there are 14 iwi planning documents accepted by Council which are set out and summarised in the Section 32 Overview Report.

The key issues in these plans that have been taken into account in the preparation of the provisions for hazardous substances are as follows:

- Protection of waterways
- Land, water and air becoming more and more contaminated which is affecting food gathering areas
- Safety issues in the storage and handling are of concern to people and domestic and native animals.

### 3.5 Other Legislation and Policy Documents

When preparing or changing a district plan, section 74(2)(b)(i) of the RMA requires council to have regard to management plans and strategies prepared under other Acts to the extent that it has a bearing on resource management issues of the district. There is also a general requirement in section 18A of the RMA to ensure district plans only include matters relevant to achieving the purpose of the RMA and therefore do not duplicate controls in other legislation.

The **Section 32 Overview Report** provides a more detailed overview of strategies and plans prepared under legislation that are relevant to the PDP. This section provides an overview of other legislation and controls of particular relevance to the management of Hazardous Substances.

#### 3.5.1 The Hazardous Substances and New Organisms Act 1996

The HSNO Act is the primary legislation designed to manage Hazardous Substances across their life cycle (import/manufacture, classification, packaging, transport, storage, use and disposal). The purpose of the HSNO Act is to *‘protect the environment, and the health and safety of people and communities by preventing or managing the adverse effects of hazardous substances and new organisms’*.

The HSNO Act is administered by the Ministry for the Environment and implemented and enforced by the Environmental Protection Authority (**EPA**). The EPA regulates the introduction and use of any Hazardous Substances and enforces any Hazardous Substance controls. Every Hazardous Substance must have an approval from the EPA under the HSNO Act. It is an offence to knowingly use, import or manufacture hazardous substances in contravention of the HSNO Act.

The EPA oversees applications made under the HSNO Act to import and manufacture Hazardous Substances. The EPA assesses the risks to people and the environment of each Hazardous Substances and decides whether they should be approved for use in New Zealand. The EPA also determines what



controls should be in place for approved substances to ensure any risks to people and the environment are mitigated (such as controls on labelling, packaging, safety data sheets, content of the hazardous substances, ecotoxic and human health controls, and disposal procedures). The controls under the HSNO Act are substance specific and are based on the particular hazardous properties of the substance. The controls apply at all times to any given substance classified as hazardous and do not consider the sensitivity of the receiving environment or nearby activities.

### 3.5.2 Health and Safety Work Act 2015

The Health and Safety Work Act 2015 (**HSW Act**) gives WorkSafe New Zealand the responsibility for establishing workplace controls for hazardous substances and is the principal enforcement and guidance agency in workplaces. The main purpose of the HSW Act is to provide for a balanced framework to secure the health and safety of workers and workplaces. WorkSafe also enforces the Health and Safety at Work (Hazardous Substances) Regulations 2017, and the Health and Safety at Work (Major Hazardous Facilities) Regulations 2016 (MHF Regulations) under the HSW Act.

The MHF Regulations came into force on 4 April 2016 and mandate specific duties relating to process safety for existing and potential Major Hazardous Facilities (**MHF**). MHF are defined under regulations 19 and 20 of the MHF Regulations as “*workplaces that have significant inherent hazards due to the storage and use of large quantities of specified hazardous substances.*” WorkSafe New Zealand also provides public information about designated major hazardous facilities and maintains a list of these facilities on its website<sup>1</sup>. There is one designated major hazardous facility in the Far North District – the Ngāwhā Geothermal Power Station.

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<sup>1</sup> Refer: [MHF public information | WorkSafe](#)

## 4 Current state and resource management issues

This section provides an overview of the relevant context for the management of Hazardous Substances, the current approach to managing Hazardous Substances in the ODP, and key issues raised through consultation. It concludes with a summary of the key resource management issues for the management of hazardous substances to be addressed through the PDP.

### 4.1 Context

The 2017 amendments to the RMA removed the explicit function of local authorities to control the adverse effects of the storage, use, disposal or transportation of hazardous substances under the RMA. The policy intent of these changes (as set out by the Ministry for the Environment) are as follows:

*“The intent of this change is to remove the perception that councils must always place controls on hazardous substances under the RMA, and to ensure councils only place additional controls on hazardous substances if they are necessary to control effects under the RMA that are not covered by the HSNO or HSW Acts.*

*In most cases HSNO and Worksafe controls will be adequate to avoid, remedy or mitigate adverse environmental effects (including potential effects) of hazardous substances.*

*Councils still have a broad function of achieving integrated management, and may use this function to place extra controls on hazardous substance use under the RMA, if existing HSNO or Worksafe controls are not adequate to address the environmental effects of hazardous substances in any particular case (including managing the risk of potential effects on the local environment)...”<sup>2</sup>.*

This context is important as it reverses the presumption that district plans must include controls to manage Hazardous Substances. Rather, the new presumption is that RMA controls should only be used when controls on Hazardous Substances in other legislation are inadequate to manage the risks of Hazardous Substances to people, property and the environment.

The controls in the HSNO Act are substance specific and do not consider the sensitivity of the receiving environment or surrounding land-uses. Therefore, additional RMA controls may be required for Hazardous Substances to manage site-specific factors, including the management of:

- Incompatible land uses
- Risks associated with ‘Major Hazard Facilities’
- Sensitive environments
- Reverse sensitivity issues
- Cumulative risks of multiple hazardous facilities
- Risks associated with natural hazards<sup>3</sup>.

### 4.2 Operative District Plan Approach

#### 4.2.1 Summary of current management approach

Section 12.8 of the ODP sets out provisions relating to the use, storage, and disposal of Hazardous Substances. The operative provisions apply in all zones and are based on a tool called the Hazardous Facilities Screening Procedure (HFSP) to identify whether a resource consent is required for the storage or use of a substance. Details of the HFSP and how to apply it are set out in **Appendix 2** of the

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<sup>2</sup> Ministry for the Environment (2017), ‘Resource Legislation Amendments 2017 – Fact Sheet 2 - Revised functions for Resource Management Act 1991 decision-makers’. Refer: [Fact-Sheet-2-Revised-functions-for-RMA-decision-makers-amended.pdf \(environment.govt.nz\)](https://www.environment.govt.nz/fact-sheet-2-revised-functions-for-rma-decision-makers-amended.pdf)

<sup>3</sup> These are the circumstances where additional RMA controls may be necessary as identified in the Quality Planning guidance note ‘Hazardous Substances under the RMA’, [Areas where RMA controls may be necessary | Quality Planning](#)

ODP. The ODP includes two objectives, six policies and subsequent rules that provide for permitted and discretionary activities – the activity status of an activity largely depends on the HFSP calculations. The ODP also includes a controlled activity rule for service stations, subject to a number of specified standards. Finally, a number of activities are listed as ‘deemed to be permitted’ (i.e. essentially exempt from the HFSP or any other District Plan controls).

#### 4.2.2 Limitation with current approach

The Council has reviewed the current approach in the ODP, which has been informed by technical advice<sup>4</sup>, internal workshops and some feedback on the Draft District Plan (DDP). This review has identified a number of issues with the current approach, which is outdated and does not reflect current best practice.

The key issue is that the ODP provisions were prepared at a time when local authorities had specific functions under the RMA to manage the storage, use, disposal or transportation of hazardous substances. The operative provisions therefore duplicate controls recently introduced by other legislation and regulations, in particular the HSNO Act and HSW Act and associated regulations.

The ODP is also based on the HFSP tool, which was commonly used in first generation plans but no longer reflects best practice. In particular, the HFSP has been criticised as being complex, difficult to implement and out-of-date. For example, the Quality Planning website states that the use of the HFSP (or similar tools) to determine whether resource consent is required *“often duplicate the HSNO Act and/or the HSW Act controls. These approaches also generally fail to recognise that the storage, use and handling of hazardous substances is usually a subset of the risks and effects associated with an activity and the extent to which these are typically addressed by zoning provisions in the first instance.”*<sup>5</sup>

In reviewing the hazardous substances provisions in the ODP, feedback was sought from FNDC resource consent planners responsible for implementing the provisions. They identified the following issues<sup>6</sup>:

- Calculating the relevant indices rating for each hazard is overly complex
- The HFSP methodology requires all components of the hazardous substance(s) to be broken down and analysed separately, before adding them together to reach the relevant calculation
- Existing provisions for managing petrol stations and LPG tanks are fairly specific and clearer to interpret
- Applications involving hazardous substances, other than for LPG or petrol stations, require a relevant expert to verify the overall indices rating and confirm the activity status – this is not able to be calculated in-house by consent processing staff
- FNDC consent processing staff often have difficulty determining when consent is required, so this is often left to the Northland Regional Council
- The FNDC does not have internal expertise in assessing hazardous substances, so all reviewing of reports needs to be contracted out.

In reviewing the hazardous substances provisions in the ODP, FNDC commissioned an issues and options report from Resource Consulting<sup>7</sup> in 2017. This report identified a number of issues with the ODP, including:

- Overlaps and gaps in the objectives and policies
- The scope of the exemptions from the rules that trigger the HFSP

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<sup>4</sup> Example - Resources (2017), ‘Hazardous Substances Provisions of the Far North District Plan – Issues and Options’, prepared for Far North District Council.

<sup>5</sup> Quality Planning website – Hazardous Substances under the RMA, refer: [Introduction | Quality Planning](#)

<sup>6</sup> Source – draft section 32 report, July 2019.

<sup>7</sup> Example - Resources (2017), ‘Hazardous Substances Provisions of the Far North District Plan – Issues and Options’, prepared for Far North District Council.

- The method to determine activity status of hazardous facilities
- The general accessibility and useability of the provisions.

The report from Resources Consulting recommended that the overall scope of the proposed provisions remain similar to the operative provisions but that they should be updated and made more user-friendly. Key recommendations in the report include replacing the HFSP tool with a Hazardous Facilities Activity Status Table (AST) to determine activity status, updating controls to reflect other legislative regimes, and removal of some controls and exemptions considered to be unnecessary or ineffective<sup>8</sup>. However, as detailed in the evaluation below, the approach recommended by Resources Consulting is not considered to be the most effective or efficient to achieve the objectives.

### 4.3 Key issues identified through consultation

The **Section 32 Overview Report** provides a detailed overview of the consultation and engagement Council has undertaken with tangata whenua, stakeholders and communities throughout the district to inform the development of the PDP and the key issues identified through this consultation and engagement. This section provides an overview of key issues raised through feedback on the draft hazardous substances chapter.

#### 4.3.1 Summary of feedback on draft Hazardous Substances chapter

Overall, there was a relatively low level of interest in the draft Hazardous Substances chapter from stakeholders and the community through consultation and engagement of the PDP. Key issues identified in feedback on the draft Hazardous Substances chapter include:

- Support for not duplicating controls in HSNO Act
- A number of comments about the overall approach to managing Significant Hazardous Facilities (SHF):
  - Some support for discretionary activity and non-complying activity status for new SHF within sensitive environments, particularly natural hazard overlays.
  - Request for SHF in Light Industrial and Rural Production Zones to be restricted discretionary (rather than discretionary).
  - Request to clarify the activity status of SHF in zones not specifically listed in draft rule HS-R2.
  - Recognition that controls on Major Hazardous Facilities (MHF) may be required as the scale of these activities mean that the risks extend beyond the boundary.
  - Concern that there is no benefit in requiring consent for storing hazardous substances at service stations as key risks are managed through other legalisation and regulation.
- A number of comments on the definition of SHF:
  - Definition needs to be risk-based.
  - Starting point for the SHF definition should be the MHF definition to determine whether controls in addition to those under the HSNO Act and HSW Act are required.
  - Exemptions for underground fuel storage need to extend beyond services stations (e.g. should also apply to truck stops).
  - The definition needs to ensure that references to the HSNO Code of Practice do not become outdated.
  - The definition needs to recognise that the storage of diesel is lower risk than petrol.
  - Concern that the definition will capture substations and electricity distribution assets, which have battery and LPG storage, and request that the definition of SHF exclude facilities associated with the local distribution network.
- Setbacks:

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<sup>8</sup> Ibid, pg.4.

- General support for setbacks but some concerns that 250m may be too onerous for all new sensitive activities – request for more information and mapping to understand risk.
- Concerns that the arbitrary 250m setbacks around sensitive activities, sensitive environments, and SHF are likely to have significant implications for the establishment of a range of activities. For example, this may make new residential dwellings non-complying in a range of areas in close proximity to industrial zones and identified SHF.
- Duplication identified between definition of sensitive activity and sensitive environment.
- Reverse sensitivity – concern that the focus is on managing reverse sensitivity effects only through separation distances, rather than considering the range of factors that may contribute to reverse sensitivity effects.
- Support for HS-O1 focusing on achieving acceptable levels of risk to people, property and the environment.

#### 4.3.2 Summary of advice from iwi authorities

Section 32(4A)(a) of the RMA requires that evaluation reports include a summary of advice on a proposed plan received from iwi authorities. The **Section 32 Overview Report** provides an overview of the process to engage with tangata whenua and iwi authorities in the development of the PDP and key issues raised through that process. Two pieces of feedback were received in relation to the Hazardous Substances chapter. In summary the feedback sought:

- To amend incorrect wording in the provisions.
- To increase the distance of new facilities from ‘sensitive activities’.

Section 3.4 above provided a summary of the key concerns and issues raised in hapū and iwi environmental management plans.

Section 5 of this report outlines how the proposed management approach responds to this advice in accordance with section 32(4A)(b) of the RMA.

#### 4.4 Summary of Resource Management Issues

Based on the analysis of relevant context, current management approach, and feedback from consultation on the DDP outlined above, the key resource management issues for the hazardous substances to be addressed through the PDP are:

- The ODP provisions are out-of-date and do not reflect the 2017 RMA amendments that removed the specific functions of local authorities to manage the use of hazardous substances. The PDP approach for hazardous substances needs to be refined to address residual risks that are not adequately addressed through controls in other legislation and regulations, in particular the HSNO Act and HSW Act.
- The existing management approach for hazardous substances, based on the HFSP to determine activity status and a wide range of exemptions, is complex, difficult to implement and outdated. A more straightforward, streamlined and certain approach is required that ensures the risks to people, property and the environment from SHF are managed to an acceptable level.
- Activities using and storing significant quantities of hazardous substances, or SHF, present risks to sensitive environments and sensitive activities. The controls in the HSNO Act and HSW Act do not consider these site-specific risks, which need to be addressed through appropriate RMA land-use controls. Specific RMA controls in addition to zoning are also required through the PDP to manage reverse sensitivity effects between SHF and sensitive activities.

## 5 Proposed District Plan Provisions

The proposed provisions are set out in the Hazardous Substances chapter of the PDP. These provisions should be referred to in conjunction with this evaluation report.

### 5.1 Strategic Objectives

The PDP includes a strategic direction section which is intended high level direction for the PDP and guidance on how best to implement the Council's community outcomes. There are no strategic objectives directly relevant to the management of hazardous substances.

### 5.2 Proposed Management Approach

This section provides a summary of the proposed management approach for the management of hazardous substances in the PDP focusing on the key changes from the ODP. The **Section 32 Overview Report** outlines and evaluates general differences between the PDP provisions and ODP, including moving from an 'effects-based plan' to a 'hybrid plan' that includes both effects and activities-based plan provisions and an updated plan format and structure to align with the Planning Standards.

The main changes in the overall proposed management approach for managing Hazardous Substances in the PDP are:

- Rationalisation of the provisions to avoid duplication of controls in other legislation and regulations, consistent with the intent of the 2017 amendments to the RMA.
- Removal of the HFSP as a basis for assessing risk and determining activity status.
- Focus on managing the risks of 'Significant Hazardous Facilities' and the proximity to 'sensitive environments' and 'sensitive activities' (which are all defined in the PDP), primarily through setbacks in addition to zoning, but also allowing for other management methods to reduce risks.
- Managing the potential for reverse sensitivity effects between SHF and sensitive activities through separation distances and other methods where appropriate.

The sections below provide a high-level summary of the objectives, policies, and rules and other methods in the proposed Hazardous Substances chapter.

### 5.3 Summary of proposed objectives and provisions

This section provides a summary of the proposed objectives and provisions which are the focus of the section 32 evaluation in section 7 and 8 of this report.

#### 5.3.1 Summary of objectives

The proposed management approach for the management of Hazardous Substances includes objectives that seek to:

- Ensure the risks associated with hazardous substances to people, property and the environment are minimised to acceptable levels while recognising the benefits of activities that store, use and dispose of hazardous substances.
- Manage separation distances between significant hazardous facilities and sensitive activities to control reverse sensitivity effects.

#### 5.3.2 Summary of provisions

For the purposes of section 32 evaluations, 'provisions' within the PDP are the *"policies, rules, or other methods that implement, or give effect to, the objectives of the proposed plan or change"*. The proposed management approach for the Hazardous Substances chapter includes policies that:

- Manage the effects of hazardous substances by:
  - Controlling the location and design of SHF to avoid or mitigate adverse effects and risks to people, property and the environment.

- Assessing and managing the effects of SHF to ensure these do not pose unacceptable risks to people, property and the environment.
- Require appropriate separation distances between SHF and sensitive activities to avoid or mitigate reverse sensitivity effects.
- Set out assessment matters to consider when assessing the effects and risks of new or expanded SHF and sensitive activities.

The proposed management approach for the Hazardous Substances chapter includes rules and standards that:

- Enable the maintenance, repair and alteration of a SHF to occur as a permitted activity provided there is no increase in residual risks.
- Control the location of new SHF in relation to zones - permitted activity in Heavy Industrial Zone, discretionary activity in Light Industrial Zone, Rural Production Zone and Ngawha Innovation and Enterprise Park zone, non-complying activity in all other zones - subject to compliance with certain standards (where applicable).
- Require separation distances between new SHF and existing sensitive activities, and between new sensitive activities and established SHF.
- Require SHF to avoid locating in sensitive environments (areas with natural, heritage or cultural value, subject to natural hazards etc.).

### 5.3.3 Responding to advice from iwi authorities

Section 32(4A) of the RMA requires evaluation reports to summarise advice received from iwi authorities on a proposed plan and the response to that advice, including any provisions that are intended to give effect to the advice. **Section 4.3.2** of this report provides a summary of advice received from iwi authorities on the provisions relating to Hazardous Substances.

Te Runanga O Ngāti Rēhia provided feedback on the DDP Hazardous Substances chapter. The following feedback was provided on rules:

- A correction in the text in that it should read sensitive activities should be located further away as they require protection from exposure to hazardous substances. This correction was addressed through the redrafting of the rules
- Request for the location of significant hazardous facilities from sensitive activities to be increased to 500m, in the redrafting of the discretionary rule the wording has been changed to say “the new significant hazardous facility is setback at least 250m from a sensitive activity”. Permitted activity in Heavy Industrial zone, discretionary activity in Light Industrial zone, Rural Production zone and Ngawha Innovation and Enterprise Park zone, non-complying activity in all other zones - subject to compliance with certain standards (where applicable).

## 6 Approach to Evaluation

### 6.1 Introduction

The overarching purpose of section 32 of the RMA is to ensure all proposed statements, standards, regulations, plans or changes are robust, evidence-based and are the most appropriate, efficient and effective means to achieve the purpose of the RMA. At a broad level, section 32 requires evaluation reports to:

- Examine whether the objectives in the proposal are the most appropriate to achieve the purpose of the RMA.
- Examine whether the provisions are the most appropriate way to achieve the objectives through identifying reasonably practicable options and assessing the efficiency and effectiveness of the provisions in achieving the objectives, including an assessment of environment, economic, social and cultural economic benefits and costs anticipated from the implementation of the provisions.

These steps are important to ensure transparent and robust decision-making and to ensure stakeholders and decision-makers can understand the rationale for the proposal and the efficiency and effectiveness of the provisions. There are also requirements in section 32(4A) of the RMA to summarise advice received from iwi authorities on the proposal and demonstrate how that advice has been responded through the provisions.

### 6.2 Evaluation of scale and significance

Section 32(1)(c) of the RMA requires that evaluation reports contain a level of detail that corresponds with the scale and significance of the environmental, economic, social and cultural effects that are anticipated from the implementation of this proposal. This step is important as it determines the level of detail required in the evaluation of the proposed objectives and provisions so that it is focused on key changes from the status quo.

The scale and significance of the environmental, economic, social and cultural effects of the provisions for managing hazardous substances are evaluated in the table below.

*Table 3: Assessment of the scale and significance of the proposal.*

Criteria	Comment	Assessment
Raises any principles of the Treaty of Waitangi	The proposed provisions have limited significance in relation to principles of the Treaty of Waitangi. The proposed provisions will ensure SHF are not located within sites and areas of significance to Māori.	Low
Degree of change from the Operative District Plan	The ODP provisions are based on a prescriptive approach using the HFSP tool, which has generally managed hazardous substances appropriately in the district until this point (although with a number of limitations discussed in <b>section 4.2.2</b> above).  However, the 2017 RMA amendments warrant a change in approach as local authorities are no longer required to control the adverse effects of the storage, use, disposal and transportation of hazardous substances through their planning documents. The RMA amendments mean that controls in district plans should only be used where the adverse effects of hazardous substances are not adequately addressed by other legislation. The PDP provisions have therefore focused on addressing the risks associated with 'significant hazardous facilities', ensuring adequate separation distances between SHFs and sensitive activities and environments, and managing the residual risks of hazardous	Medium



Criteria	Comment	Assessment
	<p>substances.</p> <p>Accordingly, there is a <b>moderate</b> degree of change from the ODP and an overall reduction in the regulation of hazardous substances through the PDP.</p>	
Effects on matters of national importance	The provisions will indirectly address a number of matters of national importance, as noted in Section 3.1 of this report by controlling the proximity of SHF to 'sensitive environments'. Sensitive environments are defined in the PDP and include a number of areas recognised in section 6 of the RMA (significant natural areas, water bodies, outstanding natural landscapes etc.).	Low
Scale of effects – geographically (local, district wide, regional, national).	The geographical effects of the proposed hazardous substances provisions in the PDP are limited to the vicinity of any 'significant hazardous facility', including the 250m buffer. It is understood that there are limited facilities in the District that would meet the definition of SHF <sup>9</sup> .	Low
Scale of people affected – current and future generations	The proposed provisions are expected to affect a relatively low number of property owners, but will benefit tangata whenua, the wider community and future generations in terms of the environmental outcomes they seek to achieve (i.e. the protection of the risk of SHF to people, property and the environment).	Low
Scale of effects on those with specific interests, e.g., Tangata Whenua	Activities involving the use and storage of hazardous substances have the potential to affect Māori values and therefore the provisions seek to control the location of SHF that involve potentially significant risks from hazardous substances so as to minimise and localise any potential adverse effects.	Low
Degree of policy risk – does it involve effects that have been considered by higher order documents? Does it involve effects addressed by other standard/commonly accepted best practice?	<p>The PDP provisions respond to the clear direction provided through the 2017 RMA amendments to only use district plan controls to manage hazardous substances if adverse effects are not adequately addressed through other legislation. The proposed provisions only seek to manage the location of SHF and the interface between SHF and sensitive areas and activities, in line with the approach taken in other second-generation district plans. This approach is also consistent with current best practice based on national guidance (Quality Planning website).</p> <p>As such, there is a low degree of policy risk anticipated from the proposed provisions.</p>	Low

### 6.3 Summary of scale and significance assessment

Overall, the scale and significance of the effects from the proposed provisions in the PDP relating to hazardous substances are assessed as being **low**. Consequently, a relatively low level of detail is appropriate for the evaluation of the objectives and provisions for the Hazardous Substances chapter in accordance with section 32(1)(c) of the RMA. This evaluation focuses on key changes in the proposed management approach from the ODP - minor changes to provisions for clarification and to reflect new national and regional policy direction are not included in the evaluation in section 7 and 8 below.

<sup>9</sup> SHF in the District likely to include Balance fertiliser Waipapa, Mt Pokaka timber Kerikeri, Affco meat works Moerewa, Council wastewater treatment plants, Ngawha Geothermal Plant.



## 7 Evaluation of objectives

Section 32(1)(a) of the RMA requires that the evaluation report examine the extent to which the objectives of the proposal are the most appropriate way to achieve the purpose of the RMA. The assessment of the appropriateness of the objectives for the Hazardous Substances chapter has been undertaken against four criteria to test different aspects of ‘appropriateness’ as outlined in Table 4 below.

Table 4: Criteria to assess the objectives of the proposal.

Criteria	Assessment
Relevance	<ul style="list-style-type: none"> <li>Is the objective directly related to a resource management issue?</li> <li>Is the objective focused on achieving the purpose of the RMA?</li> </ul>
Usefulness	<ul style="list-style-type: none"> <li>Does it assist in addressing the identified resource management issue?</li> </ul>
Reasonableness	<ul style="list-style-type: none"> <li>Can the objective be achieved without imposing unjustified high costs on Council, tangata whenua, stakeholders and the wider community?</li> </ul>
Achievability	<ul style="list-style-type: none"> <li>Can the objective be achieved by those responsible for implementation?</li> </ul>

Tables 5 and 6 below provide an assessment of proposed Objective HS-O1 and Objective HS-O2 against the above criteria.

Table 5: Evaluation of Objective HS-O1

Objective(s):	
<p><b>Objective HS-O1:</b> The risks of storage, use and disposal of hazardous substances to people, property and the environment are minimised to an acceptable level while recognising the benefits of activities that store, use and dispose of hazardous substances.</p>	
<b>Relevance</b>	<p><b>Directly related to a resource management issue</b></p> <p>Objective HS-O1 is directly related a resource management issue - risks to human health, property and the environment associated with the storage, use and disposal of hazardous substances. The storage, use and disposal of hazardous substances has the potential to have significant adverse effects on the environment and the health and safety of people and communities if not appropriately located and managed. HS-O1 seeks to ensure these risks are minimised to an acceptable level, recognising that it is not always feasible or practicable to eliminate all risks associated with the storage, use and disposal of hazardous substances.</p> <p><b>Focused on achieving the purpose of the RMA</b></p> <p>As outlined in section 3.1, the management of hazardous substances is relevant to achieving the purpose of the RMA and addressing a number of matters in sections 6 and 7.</p> <p>The objective seeks to ensure the risks of storage, use and disposal of hazardous substances to the environment are minimised to an acceptable level. This is consistent with section 5(2)(c) of the RMA to avoid, remedy and mitigate adverse effects on the environment, and the requirement to recognise and provide for the protection of a number of ‘matters of national importance’ under section 6 and ‘other matters’ under section 7 of the RMA. The implementing policies and rules for HS-O1 also give protection to ‘sensitive areas’, which are defined in the PDP and include areas recognised in section 6 of the RMA, including the coastal environment, outstanding natural features and landscapes, significant natural areas, sites of historical and cultural value etc.</p> <p>Overall, it is concluded that HS-O1 is directly relevant to known resource management</p>

	issues and will contribute to achieving the purpose of the RMA.
<b>Usefulness</b>	<p><b>Assists in addressing identified resource management issue</b></p> <p>As noted above, the 2017 RMA amendments removed the explicit function for councils to manage the storage, use and disposal of hazardous substances. Nonetheless, territorial authorities have a core function to manage the effects of the use and development of land. HS-O1 will assist Council in achieving this function by clarifying its responsibility to ensure the risks of hazardous substances to people, property and the environment are minimised to acceptable levels.</p> <p>HS-O1 provides clear direction to decision-makers to ensure the risks of hazardous substances to people, property and the environment are minimised to acceptable levels. This provides clear direction on the outcome sought while providing some flexibility on the methods used to achieve that outcome through resource consent processes. It also provides useful clarity to decision-making that it is not always feasible or practicable to eliminate all risks associated with the storage, use and disposal of hazardous substances</p>
<b>Reasonableness</b>	<p><b>Consistent with desired community and iwi/Māori outcomes, and will not result in unjustifiably high costs on the community or parts of the community</b></p> <p>HS-O1 is broadly consistent with desired community and Māori/iwi outcomes to manage risks to people, property and the environment while recognising the need for certain activities to store, use and dispose hazardous substances.</p> <p>HS-O1 seeks to manage potential risks associated with the storage, use and disposal of hazardous substances and minimise the potential adverse effects on people, property and the environment to acceptable levels. This allows a certain degree of flexibility to enable these activities to still occur as necessary within the District, with the understanding that some adverse effects may be unavoidable. This will help ensure there are not unjustifiable high costs on the community or applicants seeking to establish SHF from HS-O1 and its implementing provisions.</p> <p>Overall, HS-O1 is generally consistent with community and iwi/Māori outcomes to manage risks to the community and the environment and is not considered to create unjustifiably high costs on the community, parts of the community, or iwi/Māori.</p>
<b>Achievability</b>	<p><b>Ability to achieve the objective by those responsible for implementation</b></p> <p>HS-O1 is able to be implemented within the skills and resources available to Council. HS-O1 and its implementing provisions take a more targeted approach to managing hazardous substances in the district compared to the Operative District Plan. The focus is on managing SHF and the proximity of these facilities to sensitive activities and sensitive environments to ensure risks are minimised to acceptable levels. This is less complex and prescriptive than the ODP provisions, which will reduce the need for external technical input and advice. HS-O1 also allows some flexibility in the methods used to achieve the outcome sought, taking into account site-specific considerations. As such, HS-O1 is able to be achieved and effectively implemented by Council.</p> <p><b>An acceptable level of uncertainty and risk</b></p> <p>HS-O1 and associated provisions have an acceptable level of risk. The objective is based on current best practice to ensure RMA controls on hazardous substances do not duplicate controls under other legislation. HS-O1 also focuses on ensuring the risks from hazardous substances to people, property and the environment are minimised to acceptable levels. This allows some flexibility to consider site-specific factors through consenting processes and helps to minimise implementation risk. The onus will be on applicants to demonstrate how any proposed SHF is located and managed to ensure risks to people, property and the environment are minimised to acceptable levels.</p>
<b>Overall evaluation</b>	

The above assessment concludes that the proposed objective HS-O1 is the most appropriate way to achieve the purpose of the RMA, in terms of relevance, usefulness, reasonableness and achievability, and is preferred over the status quo (ODP) objectives.

Table 6: Assessment of Objective HS-O2.

<b>Objective:</b>	
<b>Objective HS-O2:</b> Significant hazardous facilities and sensitive activities are managed through separate distances to avoid to the extent practicable, or otherwise mitigate, reverse sensitivity effects.	
<b>Relevance</b>	<p><b>Directly related to a resource management issue</b></p> <p>Objective HS-O2 is directly related to a resource management issue - reverse sensitivity effects impacting SHF resulting from sensitive activities in close proximity. Sensitive activities can constrain the effective operation of SHF if not appropriately managed. HS-O2 is directly focused on addressing this issue and provides clear direction that these effects should be avoided where practicable, or otherwise mitigated, and that this should be primarily achieved by appropriate separation distances in the first instance.</p> <p><b>Focused on achieving the purpose of the RMA</b></p> <p>The objective will help achieve the purpose of the RMA. Avoiding and mitigating reverse sensitivity effects between SHF and sensitive activities will help to ensure land use and development is managed in a way that enables people and communities to provide for their economic and social well-being. It is also consistent with a number of 'other matters' under section 7 of the RMA, including the maintenance of amenity values and the quality of the environment.</p> <p>Overall, HS-O2 is assessed as being directly relevant to a known resource management issue and will contribute to achieving the purpose of the RMA.</p>
<b>Usefulness</b>	<p><b>Assists in addressing identified resource management issue</b></p> <p>As noted above, the 2017 RMA amendments removed the explicit function for councils to manage the storage, use and disposal of hazardous substances. Nonetheless, territorial authorities have a core function to manage the effects of the use and development of land and reverse sensitivity effects between incompatible land-uses is an adverse effect that district plans need to address. HS-O2 will assist Council in achieving this function by clarifying that reverse sensitivity effects between SHF and sensitive activities shall be avoided where practicable or otherwise mitigated.</p> <p>HS-O2 provides clear direction to decision-makers that reverse sensitivity effects resulting from the proximity of SHF to sensitive activities shall be avoided where practicable or otherwise mitigated. This recognises that it may not be practicable to completely avoid reverse sensitivity effects, but all practicable steps should be taken to do so. HS-O2 also provides direction that separation distances are the primary method to avoid reverse sensitivity effects, but other methods can also effectively mitigate these effects. Overall, this provides clear direction to decision-makers on the outcome sought and how this outcome is to be achieved.</p>
<b>Reasonableness</b>	<p><b>Consistent with desired community and iwi/Māori outcomes, and will not result in unjustifiably high costs on the community or parts of the community</b></p> <p>HS-O2 seeks to manage potential reverse sensitivity effects on SHF. This recognises that that some land uses may not be appropriate within the vicinity of a SHF and that the potential for reverse sensitivity effects should be considered when these activities are proposed in close proximity to a SHF. This will help to manage conflict between incompatible land-uses and manage the risks that sensitive activities pose to SHF. The approach is therefore not considered to create unjustifiably high costs on the</p>

	community, or parts of the community. Rather is consistent with good planning practice to manage the location of incompatible land-uses and will work in combination with zoning to manage reverse sensitivity effects.
<b>Achievability</b>	<p><b>Ability to achieve the objective by those responsible for implementation</b></p> <p>HS-O2 is able to be implemented within the skills and resources available to Council. Reverse sensitivity is a common land-use planning issue that is addressed through zoning, separation distances between specific activities, and other methods where appropriate. HS-O2 is focused on managing reverse sensitivity effects resulting in close proximity to sensitive activities, which are both terms defined in the PDP. This provides a high level of certainty on how HS-O2 is to be achieved and focuses efforts on where the biggest reverse sensitivity risks are. As such, HS-O2 is able to be achieved and effectively implemented by Council.</p> <p><b>An acceptable level of uncertainty and risk</b></p> <p>HS-O2 and associated provisions have an acceptable level of risk. The objective seeks to address a common resource management issue typically managed by district plans, being reverse sensitivity effects between incompatible land-uses. The general approach and definitions of SHF and sensitive activity are consistent with approaches taken in other district plans that have been implemented successfully in other districts. As such, there is high level of certainty on how HS-O2 is to be implemented and the associated low level of implementation risk.</p>
<b>Overall evaluation</b>	
The above evaluation concludes that the proposed HS-O2 is the most appropriate way to achieve the purpose of the RMA, in terms of relevance, usefulness, reasonableness and achievability, and is preferred over the status quo (ODP) objectives.	

## 8 Evaluation of Provisions to Achieve the Objectives

### 8.1 Introduction

Section 32(1)(b) of the RMA requires the evaluation report to examine whether the provisions are the most appropriate way to achieve the objectives by:

- (i) *identifying other reasonably practicable options for achieving the objectives; and*
- (ii) *assessing the efficiency and effectiveness of the provisions in achieving the objectives; and*
- (iii) *summarising the reasons for deciding on the provisions.*

When assessing the efficiency and effectiveness of the provisions in achieving the objectives, section 32(2) of the RMA requires that the assessment:

- (a) *identify and assess the benefits and costs of the environmental, economic, social, and cultural effects that are anticipated from the implementation of the provisions, including the opportunities for—*
  - (i) *economic growth that are anticipated to be provided or reduced; and*
  - (ii) *employment that are anticipated to be provided or reduced; and*
- (b) *if practicable, quantify the benefits and costs referred to in paragraph (a); and*
- (c) *assess the risk of acting or not acting if there is uncertain or insufficient information about the subject matter of the provisions.*

This section provides an assessment of reasonably options and associated provisions (policies, rules and standards) for achieving the objectives in accordance with these requirements. This assessment of options is focused on the key changes from the status quo as outlined in the ‘proposed management approach’ in section 5.2 of this report.

Each option is assessed in terms of the benefits, costs, and effectiveness and efficiency of the provisions, along with the risks of not acting or acting when information is uncertain or insufficient. For the purposes of this assessment:

- **effectiveness** assesses how successful the provisions are likely to be in achieving the objectives and addressing the identified issues
- **efficiency** measures whether the provisions will be likely to achieve the objectives at the least cost or highest net benefit to society.

The sections below provide an assessment of options (and associated provisions) for achieving the objectives in accordance with sections 32(1)(b) and 32(2) of the RMA.

## **8.2 Quantification of benefits and costs**

Section 32(2)(b) of the RMA requires that, where practicable, the benefits and costs (environmental, economic, social and cultural) of a proposal are quantified. The requirement to quantify benefits and costs if practicable recognises it is often difficult and, in some cases, inappropriate to quantify certain costs and benefits through section 32 evaluations, particularly those relating to non-market values.

As discussed in section 6, the scale and significance of the effects of proposed changes for the Hazardous Substances chapter are assessed as being **low**. Therefore, exact quantification of the benefits and costs of the different options to achieve the objectives is not considered to be necessary or practicable for the Hazardous Substances provisions in the PDP. Rather this evaluation focuses on providing a qualitative assessment of the environmental, economic, social and cultural benefits and costs anticipated from the provisions.

### 8.3 Evaluation of options

The evaluation of provisions focuses on two options:

- Option 1 – status quo (i.e. Operative District Plan provisions outlined in **section 4.2** of this report)
- Option 2 – proposed approach (outlined in **section 5** of this report).

#### 8.3.1 Option 1: Status quo

Table 7: Assessment of the effectiveness and efficiency of the status quo (Operative District Plan) provisions.

<b>Option 1: The 'status quo' Operative District Plan provisions</b>		
<b>Benefits</b>	<b>Costs</b>	<b>Risk of acting / not acting</b>
<ul style="list-style-type: none"> <li>• The status quo provisions offer the benefit of being familiar to Council and industry. This offers the benefit of 'business as usual' with little to no disruption to current consenting and compliance practice.</li> </ul> <p><b><u>Economic growth and employment opportunities</u></b></p> <ul style="list-style-type: none"> <li>• As the status quo seeks to retain 'business as usual', no increase in economic growth and employment opportunities are anticipated.</li> </ul>	<ul style="list-style-type: none"> <li>• The provisions duplicate controls in other legislation, creating inefficiencies and compliance costs.</li> <li>• The provisions are complex and difficult to interpret and administer, creating inefficiencies and implementation costs.</li> <li>• The provisions do not prevent sensitive activities from locating adjacent to established SHF. Complaints from new sensitive activities could impact established SHF by requiring them to amend their procedure and processes or take additional measures to protect health and safety of people, which adds costs to their operations.</li> </ul>	<ul style="list-style-type: none"> <li>• The risks associated with continuing the status quo approach are well understood as the operative provisions based on the HSFP are well established and understood in the district. The main risk of continuing to use the Operative District Plan provisions (rolling these over into PDP) is that they would continue to duplicate controls in other legislation, will continue to be complex and technical to administer and will be inconsistent with current best practice to limit controls on hazardous substances in RMA plans.</li> </ul>
<p><b><u>Effectiveness</u></b></p> <ul style="list-style-type: none"> <li>• The provisions are not the most effective method for achieving the objectives as they do not focus on ensuring the risk to people, property and the environment from hazardous substances are minimised to acceptable levels.</li> <li>• The provisions do not adequately address reverse sensitivity effects between SHF and sensitive activities.</li> </ul>		<p><b><u>Efficiency</u></b></p> <ul style="list-style-type: none"> <li>• The provisions duplicate controls in other legislation which is highly inefficient for industry and regulators.</li> <li>• The provisions are based on the HFSP which been criticised as being complex and difficult to implement, inefficient and out-of-date.</li> </ul>



<ul style="list-style-type: none"> <li>Consequently, the status quo provisions are not the most effective to achieve HS-O1 and HS-O2.</li> </ul>	
<p><b>Overall evaluation</b></p> <p>On balance this option is not considered to be the most appropriate option to achieve the objectives because:</p> <ul style="list-style-type: none"> <li>The provisions are dated, complex and difficult to administer and do not reflect good planning practice</li> <li>The provisions are not effective in achieving the objectives as they do not ensure risks of hazardous substances are minimised to acceptable levels or adequately manage reverse sensitivity effects between SHF and sensitive activities</li> <li>The provisions are inefficient as they duplicate controls in other legislation and are difficult to interpret and implement.</li> </ul>	

### 8.3.2 Option 2: Proposed provisions

Table 8: Evaluation of the proposed provisions.

<i>Option 2: The proposed provisions</i>		
<b>Benefits</b>	<b>Costs</b>	<b>Risk of acting / not acting</b>
<ul style="list-style-type: none"> <li>The provisions will result in risks to people, property and the environment being minimised to acceptable levels. This complements the HSNO and HWS Act regulatory frameworks.</li> <li>The provisions are more targeted and focus on where additional controls on hazardous substances are warranted due to site-specific factors not addressed in other legislation. This reduces unnecessary duplication and is a more efficient approach than status quo for industry and applicants.</li> <li>The provisions provide a clearer framework and more simplified consenting approach for activities involving significant quantities of hazardous substances – SHF. This will result in efficiency gains while improving environmental outcomes.</li> <li>Supports the retention of industrial areas that provide for activities that involve hazardous substances, and</li> </ul>	<ul style="list-style-type: none"> <li>There will be a cost to the Council in administering the new provisions, particularly in relation to processing consent applications (although fair and reasonable costs can be recovered). However, these are likely to be partially offset by a decrease in the costs and complexities associated with administration of the existing hazardous substances provisions in the Operative District Plan, including the current need for both the applicant and council to get expert advice to administer the HSFP framework.</li> <li>Consent costs for applicants if they need expert input to demonstrate how a proposed SHF will minimise the risks of hazardous substances to people, property and the environment to acceptable levels.</li> </ul>	<ul style="list-style-type: none"> <li>The risk of acting is low – the provisions are consistent with other recently developed district plans and it is becoming a well understood and well supported approach to rely on the HSNO Act and HSW Act to manage hazardous substances and limit RMA controls to site-specific factors not addressed in this legislation. The provisions also focus on managing reverse sensitivity effects which is a common and well understood resource management issue addressed in district plans. As such, there is a low risk associated with introducing the proposed provisions.</li> </ul>

<p>ensures they remain as a physical resource for the community to meet its economic needs.</p> <p><b><u>Economic growth and employment opportunities</u></b></p> <p>No direct increase in economic growth and employment opportunities are anticipated as a result of the proposed provisions.</p>	<ul style="list-style-type: none"> <li>• Reduced location options for SHF in the district.</li> </ul>	
<p><b><u>Effectiveness</u></b></p> <ul style="list-style-type: none"> <li>• The proposed provisions (policies and rules) will be effective in achieving the objective of ensuring the risks associated with the use, storage and disposal of hazardous substances are minimised to acceptable levels. This is to be achieved through controls on where SHF can be located and the proximity of these facilities to sensitive environments and sensitive activities.</li> <li>• The proposed provisions will also be effective in avoiding, or otherwise mitigating, reverse sensitivity effects on SHF, caused by the close proximity of sensitive activities through setback requirements and supporting policies. The provisions also recognise that separation distances are the primary tool to avoid reverse sensitivity effects, but other methods can also be used to mitigate these effects.</li> </ul>	<p><b><u>Efficiency</u></b></p> <ul style="list-style-type: none"> <li>• The proposed provisions provide a more efficient approach than the status quo as they avoid duplication with other legislation.</li> <li>• The provisions provide a clear framework for decision-making and will establish a consistent approach to deal with SHF applications.</li> </ul>	
<p><b><u>Overall evaluation</u></b></p> <p>On balance this option is considered to be the most appropriate option to achieve the objectives because:</p> <ul style="list-style-type: none"> <li>• It is focused on where RMA controls are needed to manage site-specific factors and risks not adequately addressed in other legislation</li> <li>• It will ensure residual risks from hazardous substances to people, property and the environment are minimised to acceptable levels and reverse sensitivity effects on SHF are avoided, or otherwise mitigated through separation distances and other methods.</li> <li>• The provisions provide a targeted, simplified and streamlined policy and rule framework which will be more effective and efficient than the Operative District Plan provisions.</li> </ul>		

## 9 Summary

An evaluation of the proposed objectives and provisions for the Hazardous Substances chapter has been carried out in accordance with section 32 of the RMA. This evaluation has concluded that the objectives are the most appropriate way to achieve the purpose of the RMA and the provisions are the most appropriate way to achieve the objectives for the following reasons:

- The provisions are aligned with the intent of the 2017 RMA amendments to ensure district plan controls that manage hazardous substances do not duplicate controls in other legislation, including the HSNO Act and HSW Act. The provisions are therefore more targeted and refined compared to the ODP and seek to only control the storage, use and disposal of Hazardous Substances where the risks are not adequately addressed by other legislation. This is a more effective and efficient approach to achieve the objectives compared to the ODP provisions.
- The provisions give effect to relevant regional policy direction in RPS to manage Hazardous Substances in areas subject to Natural Hazards.
- The provisions will achieve the purpose of the RMA and provide for a number of section 6 and 7 matters by requiring SHF to be located outside of 'sensitive environments'
- The provisions will effectively manage reverse sensitivity effects on SHF, resulting from sensitive activities locating in close proximity, through clear policy direction, separation distances and other methods.