



SECTION 42A REPORT HAZARDOUS SUBSTANCES

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Appendix 1: Officer's Recommended Amendments Hazardous substances
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List of Abbreviations

Table 1: List of Submitters and Abbreviations of Submitters' Names

Submitter Number	Abbreviation	Full Name of Submitter
S335	Oil Companies	BP Oil New Zealand Limited, Mobil Oil New Zealand Limited, Z Energy Limited
S368	FNDC	Far North District Council
S512	FENZ	Fire and Emergency New Zealand
S159	Horticulture NZ	Horticulture New Zealand
S331	MOE	Ministry of Education Te Tāhuhu o Te Mātauranga
S421	Federated Farmers	Northland Federated Farmers of New Zealand
S454	Transpower	Transpower
S483	Top Energy	Top Energy Ltd
S511	Forest & Bird	Royal Forest and Bird Protection Society of New Zealand
S512	FENZ	Fire and Emergency New Zealand

Note: This table contains a list of submitters relevant to this topic which are abbreviated and does not include all submitters relevant to this topic. For a summary of all submitters please refer to Section 5.1 of this report (overview of submitters). Appendix 2 to this Report also contains a table with all submission points relevant to this topic.

Table 2: Other abbreviations

Abbreviation	Full Term
FNDC	Far North District Council
NPS	National Policy Statement
PDP	Proposed District Plan
RMA	Resource Management Act
RPS	Regional Policy Statement



1 Executive summary

1. The Far North Proposed District Plan ("PDP") was publicly notified in July 2022. The Hazard substance Chapter is located in district wide section of the PDP.
2. 13 original submitters (with 48 individual submission points) and 14 further submitters (with 74 individual submission points) were received on the Hazardous substances' topic.
3. The submissions can largely be categorised into several key themes:
 - a. Most submitters supported the definition of hazardous substances and significant hazardous facility as notified, with a small amendment sought to the definition of Hazardous substances.
 - b. Recognition and agreement of the chapter was necessary to manage the effects of hazardous substances and manage reverse sensitivity effects.
 - c. Support for the new definition of a significant hazardous facility.
 - d. A request for an amendment to the Rules in respect of a greater setback than in HS-R2, which has at least a 250m setback distance from a sensitive activity.
4. This report has been prepared in accordance with Section 42A of the Resource Management Act ("RMA") and outlines recommendations in response to the issues raised in submissions. This report is intended to both assist the Hearings Panel to make decisions on the submissions and further submissions on the PDP and also provide submitters with an opportunity to see how their submissions have been evaluated, and to see the recommendations made by officers prior to the hearing.
5. The key changes recommended in this report relate to:
 - a. An amendment to the definition of hazardous substances to reflect HSNO codes of practice may have been and can be superseded by other documents in the future. The definition has been amended to insert the words 'relevant WorkSafe guidance', deleting the words 'HSNO codes or practice'.
 - b. Amendment to the heading of rule HS-R1, to insert 'and alteration' in the heading.



2 Introduction

2.1 Author and qualifications

6. My name is Lynette Morgan, and I am employed as a Policy Planner in the District Planning Team at the Far North District Council.
7. I hold the qualifications of a Post Graduate Diploma of Public Policy from the University of Victoria and a Bachelor of Laws from the University of Otago.
8. I have 8 years' experience in central government policy development, including the development, report writing, drafting and carriage of Local Government and related Legislation through the New Zealand House of Representatives. I have two years of Local Government policy development formation, drafting and writing of bylaws and delegations including planning and resource management, including consultation and the preparation and writing of s42A reports and over 25 years of practice in the Law.

2.2 Code of Conduct

9. I confirm that I have read the Code of Conduct for Expert Witnesses in the Environment Court Practice Note 2023 and that I have complied with it when preparing this report. Other than when 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. I am authorised to give this evidence on the Council's behalf to the Proposed District Plan hearings commissioners ("Hearings Panel").

3 Scope/Purpose of Report

11. This report has been prepared in accordance with Section 42A of the Resource Management Act to:
 - a. assist the Hearings Panel in making their decisions on the submissions and further submissions on the Proposed District Plan; and
 - b. provide submitters with an opportunity to see how their submissions have been evaluated and the recommendations being made by officers, prior to the hearing.
12. This report responds to submissions on Hazardous substance chapter.
13. These submission points will be addressed as part of the rezoning hearing, to enable a full consideration of the zone change requests and relevant submitter evidence, against an agreed set of criteria, alongside other zone request changes and taking into consideration the recommended provisions for the zone chapters.



14. Wherever possible, I have provided a recommendation to assist the Hearings Panel.

4 Statutory Requirements

4.1 Statutory documents

15. I note that the Hazardous substances topic Section 32 report provides detail of the relevant statutory considerations applicable to the Hazardous substances topic.
16. It is not necessary to repeat the detail of the relevant RMA sections and full suite of higher order documents here. Consequently, no further assessment of these documents has been undertaken for the purposes of this report.

4.1.1 Resource Management Act

17. The Government elected in October 2023, has repealed both the Spatial Planning Act 2023 and Natural and Built Environment Act 2023 on the 22nd of December 2023 and has reinstated the RMA as Zealand's primary resource management policy and plan making legislation. The Government has indicated that the RMA will ultimately be replaced, with work on replacement legislation to begin in 2024. The government has indicated that this replacement legislation will be introduced to parliament this term of government (i.e. before the next central government election in 2026). However, at the time of writing, details of the new legislation and exact timing are unknown. The RMA continues to be in effect until new replacement legislation is passed.
18. On the 24 March 2025, the Government announced that RMA will be replaced with two new pieces of legislation:
 - a. A Natural Environment Act – focused on managing the natural environment
 - b. A Planning Act – focused on planning to enable development and infrastructure.
19. In the announcement, the Government stated that the new legislation will narrow the scope of the resource management system and the effects it controls, with the enjoyment of private property rights as the guiding principle. It was also signalled that there will be a shift from a precautionary to a more permissive approach to better enable development, streamline processes, and enhance New Zealand's ability to meet its housing, infrastructure, and environmental objectives. This includes nationally standardised land use zones, one combined plan per region (including a regional spatial plan) and more cohesive and streamlined national direction. The intention is that the two new pieces of legislation will be introduced to Parliament by the end of 2025, with a Select Committee process in 2026, and passage into law before the 2026



general election. The RMA continues to be in effect until when and if this new replacement legislation is passed.

4.1.2 National Policy Statements

4.1.2.1 National Policy Statements Gazetted since Notification of the PDP

20. The PDP was prepared to give effect to the National Policy Statements that were in effect at the time of notification (27 July 2022). This section provides a summary of the National Policy Statements, relevant to Strategic Direction that have been gazetted since notification of the PDP. As District Plans must be “prepared in accordance with” and “give effect to” a National Policy Statement, the implications of the relevant National Policy Statements on the PDP must be considered.
21. The National Policy Statement for Indigenous Biodiversity (NPS-IB) took effect on 4 August 2023. This was after the PDP was notified (27 July 2022), but while it was open for submissions. The objective of the NPS-IB is to maintain indigenous biodiversity so there is at least no overall loss in indigenous biodiversity. The objective is supported by 17 policies. These include Policy 1 and Policy 2 relating to the principles of the Treaty of Waitangi and the exercise of kaitiakitanga by tangata whenua in their rohe.
22. The National Policy Statement for Highly Productive Land (NPS-HPL) took effect on 17 October 2022. The NPS-HPL has a single objective: Highly productive land is protected for use in land-based primary production, both now and for future generations. The objective is supported by nine policies and a set of implementation requirements setting out what local authorities must do to give effect to the objective and policies of the NPS-HPL, including restrictions on the urban rezoning, rural lifestyle rezoning, and subdivision of highly productive land and requirements to protect highly productive land from inappropriate use and development.

4.1.2.2 National Policy Statements – Announced Future Changes

23. On the 24 March 2025, the Government announced that RMA will be replaced with two new pieces of legislation:
 - a. A Natural Environment Act – focused on managing the natural environment
 - b. A Planning Act – focused on planning to enable development and infrastructure.
24. In the announcement, the Government stated that the new legislation will narrow the scope of the resource management system and the effects it controls, with the enjoyment of private property rights as the guiding principle. It was also signalled that there will be a shift has from a precautionary to a more permissive approach to better enable



development, streamline processes, and enhance New Zealand’s ability to meet its housing, infrastructure, and environmental objectives. This includes nationally standardised land use zones, one combined plan per region (including a regional spatial plan) and more cohesive and streamlined national direction. The intention is that the two new pieces of legislation will be introduced to Parliament by the end of 2025, with a Select Committee process in 2026, and passage into law before the 2026 general election. The RMA continues to be in effect until when and if this new replacement legislation is passed.

25. In October 2023 there was a change in government and several announcements have been made regarding work being done to amend or replace various National Policy Statements (summarised in **Table 1** below). The below NPS are of general relevance to the submissions received on the Hazardous substances topic.

Table 1 Summary of announced future changes to National Policy Direction (as indicated by current Government, as of March 2024)

National Statement	Policy	Summary of announced future changes	Indicative Timing
National Policy Statement for Freshwater Management (NPS-FM)		<ul style="list-style-type: none"> Changes to hierarchy of obligations in Te Mana o Te Wai provisions Amendments to NPS-FM, which will include a robust and full consultation process with all stakeholders including iwi and the public 	<p>End of 2024</p> <p>2024 - 2026</p>
National Policy Statement on Indigenous Biodiversity (NPS-IB)		<ul style="list-style-type: none"> Amendments to the NPS-IB Work to stop/cease implementation of new Significant Natural Areas 	2025 - 2026
National Policy Statement for Urban Development (NPS-UD)		<ul style="list-style-type: none"> Amendments to NPS-UD, including requirements for Tier 1 and 2 Council to 'live zone' enough land for 30 years of housing growth, and making it easier for mixed use zoning around transport nodes. 	By end of 2024
National Policy Statement for Renewable Electricity Generation (NPS-REG)		<ul style="list-style-type: none"> Amendments to NPS-REG, to allow renewable energy production to be doubled 	By end of 2024
National Policy Statement for Electricity Transmission (NPS-ET)		<ul style="list-style-type: none"> Amendments to NPS-ET, but at this stage direction and amendments are unclear. 	By end of 2024
National Policy Statement for Highly Productive Land (NPS-HPL)		<ul style="list-style-type: none"> Amendments to the NPS-HPL in light of needing to enable housing growth and remove consenting barriers. Possible amendments to the definition 	2024 - 2025



National Statement	Policy	Summary of announced future changes	Indicative Timing
		of 'Highly Productive Land' to enable more flexibility	
Proposed National Policy Statement for Natural Hazards (NPS-NH)		<ul style="list-style-type: none"> No update on progress has been provided by current government. 	Unknown

4.2 Council's Response to Current Statutory Context

26. The evaluation of submissions and recommendations in this report are based on the current statutory context (that is, giving effect to the current National Policy Statements). I note that the proposed amendments and replacement National Policy Statements do not have legal effect until they are adopted by Government and formally gazetted.
27. Sections 55(2A) to (2D) of the RMA sets out the process for changing District Plans to give effect to National Policy Statements. A council must amend its District Plan to include specific objectives and policies or to give effect to specific objectives and policies in a National Policy Statement if it so directs. Where a direction is made under Section 55(2), Councils must directly insert any objectives and policies without using the Schedule 1 process and must publicly notify the changes within five working days of making them. Any further changes required must be done through the RMA schedule 1 process (such as changing rules to give effect to a National Policy Statement).
28. Where there is no direction in the National Policy Statement under Section 55(2), the Council must amend its District Plan to give effect to the National Policy Statement using the RMA schedule 1 process. The amendments must be made as soon as practicable, unless the National Policy Statement specifies a timeframe. For example, changes can be made by way of a Council recommendation and decision in response to submissions, if the submissions provide sufficient 'scope' to incorporate changes to give effect to the National Policy Statements.
29. I have been mindful of this when making my recommendations and believe the changes I have recommended are either within scope of the powers prescribed under Section 55 of the RMA or within the scope of relief sought in submissions.

4.2.1 National Planning Standards

30. The National Planning Standards determine the sections that should be included in a District Plan, including the Strategic Direction chapters, and how the District Plan should be ordered. The Hazardous substances topic provisions proposed and recommended in this report follow this guidance.



4.2.2 Treaty Settlements

31. There have been no further Deeds of Settlement signed to settle historic Treaty of Waitangi Claims against the Crown, in the Far North District, since the notification of the PDP.

4.2.3 Iwi Management Plans – Update

32. When the PDP was notified in July 2022, Council had 14 hapū/iwi management planning documents which had been formally lodged with Council, as listed in the PDP section 32 overview report. Council took these management plans, including the broader outcomes sought, into account in developing the PDP. Of the 14 hapū/iwi management planning documents, only two have been revised since notification of the PDP:
 - a. Ngā Tikanga mo te Taiao o Ngāti Hine' the Ngāti Hine Environmental Management Plan; and
 - b. Ahipara Takiwā Environmental Management Plan
33. A summary of the key issues, objectives and policies that are relevant to Hazardous substances in these two hapū/iwi management planning documents is below.

Ngā Tikanga mo te Taiao o Ngāti Hine' the Ngāti Hine

34. Key issues, objectives and policies relevant to Hazardous substances in this iwi management plan include:

2.2 Water and Land - Wai me te Whenua

Objective 1 Water is a sacred resource and a taonga of special significance to Ngāti Hine and therefore requires our absolute protection. - Bio security risks are actively managed.

Policy 3 All discharge of pollutants or contaminants into natural waterways within Ngāti Hine is to be avoided at all times.

Ahipara Takiwā Environmental Management Plan

35. Key issues, objectives and policies relevant to Hazardous substances in this iwi management plan include:

Objective TWNATP 22 - Whakamaoritia - Objectives relating to biodiversity, specifically (d) minimise the use of hazardous substances, and give preference to natural solutions (trapping possums; establishment of riparian margins for shading aquatic weed);



36. These updated iwi management plans are considered through this report, to the extent relevant and within the scope of submissions on relevant provisions.

4.3 Section 32AA evaluation

37. This report uses 'key issues' to group, consider and provide reasons for the recommended decisions on similar matters raised in submissions. Where changes to the provisions of the PDP are recommended, these have been evaluated in accordance with Section 32AA of the RMA.
38. The s32AA further evaluation for each key issue considers:
 - a. Whether the amended objectives are the best way to achieve the purpose of the RMA.
 - b. The reasonably practicable options for achieving those objectives.
 - c. The environmental, social, economic and cultural benefits and costs of the amended provisions.
 - d. The efficiency and effectiveness of the provisions for achieving the objectives.
 - e. The risk of acting or not acting where there is uncertain or insufficient information about the provisions.
39. The s32AA further evaluation contains a level of detail that corresponds to the scale and significance of the anticipated effects of the changes that have been made. Recommendations on editorial, minor and consequential changes that improve the effectiveness of provisions without changing the policy approach are not re-evaluated.

4.4 Procedural matters

40. Due to the clarity of submissions, no correspondence or meetings with submitters needed to be undertaken and there are no procedural matters to consider for this hearing.
41. No pre-hearing meetings or Clause 8AA meetings on the submissions relating to Hazardous substances were held prior to the finalisation of this s42A report.
42. No further consultation with any parties regarding Hazardous substances has been undertaken since notification of the provisions.



5 Consideration of submissions received

5.1 Overview of submissions received.

43. A total of 48 original submissions and 17 further submissions were received on the Hazardous substances chapter.
44. The main submissions on the Hazardous substances chapter came from:
 - a. The Oil Companies (S335);
 - b. Power companies including Transpower (S454) and Top Energy Ltd (S483);
 - c. Primary sector; including Horticultural NZ (S159) and Federated Farmers (421);
 - d. Iwi and Hapu, Te Hiku Iwi Development Trust S304), Ngati Rangi ki Ngawha Hapu (S304. and Ngati Rangi ki Ngawha (S515); and
 - e. Government agencies including Ngā Tai Ora - Public Health Northland (S516) and Ministry of Education (S337)
45. The key issues identified in this report responding to submission on the Hazardous substance chapter are:
 - a. Key Issue 1: Definition and General matters of the Hazardous substances chapter structure.
 - b. Key Issue 2: Objectives.
 - c. Key Issue 3. Policies.
 - d. Key Issue 4. Rules.
46. Section 5.2.1 constitutes the main body of the report and considers and provides recommendations on the decisions requested in submissions. Due to the large number of submissions received and the repetition of issues, as noted above, it is not efficient to respond to each individual submission point raised in the submissions. Instead, this part of the report groups similar submission points together under key issues. This thematic response assists in providing a concise response to, and recommended decision on, submission points.

5.2 Officer Recommendations

47. A copy of the recommended plan provisions for the Hazardous substances chapter is provided in **Appendix 1 – Officer’s Recommended Amendments to this report.**



48. A full list of submissions and further submissions on the Hazardous substances chapter is contained in **Appendix 2 – Officer’s Recommended Decisions on Submissions to this report.**
49. Additional information can also be obtained from the Summary of Submissions (by Chapter or by Submitter) Submissions database Far North District Council (fndc.govt.nz) the associated Section 32 report on this chapter section-32-overview.pdf (fndc.govt.nz) the overlays and maps on the ePlan Map - Far North Proposed District Plan (isoplan.co.nz).

5.2.1 Key Issue 1: Definitions and General Matters

Overview

Provision(s)	Officer Recommendation(s)
Overview	<ul style="list-style-type: none"> Retain as notified
Definition	<ul style="list-style-type: none"> Amend to replace the words '<u>relevant WorkSafe guidance</u>' in place of 'HSNO code or practice'

50. The definition of Hazardous substances was supported by Ngā Tai Ora - Public Health Northland (S516.006), Horticulture New Zealand (S159.044) FENZ (S512.004) and Federated Farmers (S421.078). FENZ and Federated Farmers were of the view the PDP Overview and definition were consistent with the Hazardous substances and New Organisms Act 1996 (HSNO).
51. Kapiro Residents Association (S429.011) supported in part the definition of Hazardous substances in the PDP, but sought the plan be amended so when subdivision, land use or development is considered, it gives effect to the NPS Freshwater Management (NPS FM) fundamental concept of Te Mana o te Wai (including the principles and the hierarchy of obligations).
52. FENZ (S512.007) submitted they supported the definition of significant hazardous facility (SHF). However, FENZ suggest including further detail on activities related with and to the storage of hazardous substances. The rationale is large scale storage and transport depots for hazardous substances (e.g. like an inland port or bulk chemical warehouse) can have a large impact on neighbouring sites during emergencies. FENZ sought the definition be amended to better provide for the storage of hazardous substances beyond sites involved with manufacture or sites specific to petrol, diesel or LPG.
53. The Oil companies (335.001) submitted the last paragraph in the proposed definition of significant hazardous facility exempts underground storage of petrol and diesel in relation to service stations and other commercial refuelling facilities. The Oil companies assume this includes truck stops and therefore supports this exemption. The Oil



companies suggest the reference to '(c)' in the exemption paragraph should refer to '(d)'. The oil companies also support the principle of recognising that there is the potential for relevant (current) HSNO codes of practice to be superseded by other documents in the future. However, they submit the volume thresholds are not risk based and more recently, the industry has shifted towards larger storage volumes (enabled by large capacity, modern double-skinned fibreglass tanks) to increase efficiencies and this has triggered particular consents and consenting pathways. As a result, they seek the definition of SHF be amended as follows:

"significant hazardous facility means the use of land and/or buildings (or any part of) for one or more of the following activities:

- a. any Major Hazard Facility designated under the Health and Safety at work (Major Hazard Facilities) Regulations 2016, including the Ngawha Geothermal Plant;*
- b. manufacturing, including the associated storage, of hazardous substances (including agrichemicals, fertilisers, acids/alkalis or paints);*
- c. petroleum exploration and petroleum production facility;*
- d. the storage/use of more than 100,000L of petrol or diesel;*
- e. the storage/use of more than 6 tonnes of LPG.*
- f. galvanising plants;*
- g. electroplating and metal treatment;*
- h. tanneries.*
- i. timber treatment;*
- j. freezing works and rendering plants'*
- k. wastewater treatment plants;*
- l. metal smelting and refining (including battery refining or recycling);*
- m. milk processing plants; or*
- n. polymer foam manufacturing.*

The storage of petrol and diesel in (e) (d) above does not include the underground storage at service stations and commercial refuelling facilities 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 (or more recent relevant WorkSafe guidance ~~HSNO code or practice~~ for underground fuel storage.)'



Analysis of Submissions on Key Issue 1

54. In response to the submission of Kapiro Residents Association requesting the definition/plan be amended to give effect to the NPS Freshwater Management (NPS FM) including the concept of Te Mana o te Wai (including the principles and the hierarchy of obligations within). The purpose of the Hazardous substances chapter is to manage the interface between the use and storage of hazardous substances and sensitive land use activities. Te Mana o te Wai is one of the key management principles of the NPS-FM which manages freshwater quality and quantity amongst other things. While there is reference to some roles for Territorial Authorities in the NPS-FM, section 30 of the RMA allocates the control of the use of land for the maintenance and enhancement of water quality to Regional Authorities. This is implemented in Northland through the Northland Regional Plan (NRP). The NRP has numerous provisions that address these matters, and the PDP need not duplicate these provisions. I therefore recommend that this submission point be rejected.
55. In respect of the request by FENZ to amend the definition of a SHF, to provide for the storage of hazardous substances beyond sites involved with manufacture or sites specific to petrol, diesel or LPG, I have examined several other recent District Plans none of which have included this expanded definition. In my opinion the definition of SHF, other than the amendment set out in 59 below, is appropriate and reflects other plans. I welcome the submitter to provide further information in support of the request if they still seek the definition be amended.
56. The Oil companies seek the SHF definition be amended to remove reference to the HSNO code of practice and replace it with the 'WorkSafe guidance'. WorkSafe are the lead regulator for HSNO. Hazardous substances in the Workplace and are managed by both HSNO, the Health and Safety at Work Act 2015 (HSW) and the Health and Safety at Work (Hazardous Substances) Regulations 2016 (the Regs). Some previously approved HSNO codes of practice and best practice guidelines, are no longer valid. All relevant codes and guidelines are managed via WorkSafe's guidelines. For this reason, I agree with the Oil companies, to ensure the most up to date guidelines are being used. Worksafe are the best source and as the regulator will have the most up to date guidance.

Recommendation

57. For the reason above, I recommend Kapiro Residents Association submission seeking the definition/plan be amended to give effect to the NPS Freshwater Management, be rejected and there are no amendments to the definition/plan, as suggested.
58. I recommend the request to extend the definition of SFH as sought by FENZ, be rejected.



59. For the reason above, I recommend the definition of a SHF be amended by inserting 'relevant WorkSafe' and deleting ~~HSNO code or practice~~ be accepted.

Section 32AA evaluation

60. The recommended amendment is around clarifying the wording of the definition and will assist with consistent implementation of the plan. The change ensures the most up to date guidelines are being used. The changes only applies to the definition.

5.2.2 Key Issue 2: Objectives

Overview

Provision(s)	Officer Recommendation(s)
HS-O1	Retain
HS-O2	Retain

Analysis of Submissions on Key Issue 2

Matters raised in submissions

61. The Oil companies (S335.002), Horticultural NZ (S159.044) and Federated Farmers (S421.079) support HS-O1. The submissions all affirmed the objectives appropriately reflected the range of factors that are relevant to the management of the risk hazardous substances present, and the plan appropriately focuses on these, including facilities related for hazardous substances.
62. The Oil companies (S335.03), Federated Farmers (S421.080) and MOE (S331.035) support HS-O2 being retained as notified. The submitters all noted the objective recognised the need to manage the effects of hazardous substances and manage reverse sensitivity effects.

Analysis

63. No analysis is necessary as all submitted are in support of HS-O1 and are in support of HS-O1 being retained as notified.
64. No analysis is necessary as all submitted are in support of HS-O2 and are in support of HS-O2 being retained as notified.

Recommendation

65. I recommend HS-O1 be retained as notified.
66. I recommend HS-O2 be retained as notified.

Section 32AA evaluation

67. No change to the provisions is recommended at this stage. On this basis, no evaluation under Section 32AA is required.



5.2.3 Key Issue 3: Policies

Overview

Provision(s)	Officer Recommendation(s)
HS-P1	Retain
HS-P2	Retain
HS-P3	Retain

Analysis of Submissions on Key Issue 3

Matters raised in submissions

68. Te Hiku Iwi Development Trust (S399.038) and Federated Farmers (S421.081) submissions were in support of HS-P1. Te Hiku Iwi Development Trust supported the policy as it provided for a separation from natural water bodies and other sensitive environments.
69. Te Hiku Iwi Development Trust (S399.09), Federated Farmers (S421.082) and the Oil companies (S335.004) submissions were all in support of HS-P2.
70. Te Hiku Iwi Development Trust reiterated their submission made in support of HS-P1 and for HS-P2. The Oil companies also submitted the policy provided for separation distances or mitigation measures to manage the effects of reverse sensitivity between significant hazards facilities and sensitive activities.
71. Te Hiku Iwi Development Trust (S399.040) and Federated Farmers (S421.083) submissions supported HS-P3. Te Hiku Iwi Development Trust reiterated their submissions in respect of HS-P1 and for HS-P3.

Analysis

72. No analysis is necessary as the submitters were in support of HS-P1, HS-P2 and HS-P3 being retained as notified.

Recommendation

73. I recommend HS-P1 be retained as notified.
74. I recommend HS-P2 be retained as notified.
75. I recommend HS-P3 be retained as notified.

Section 32AA evaluation

76. No change to the provisions is recommended at this stage. On this basis, no evaluation under Section 32AA is required.

5.2.4 Key Issue 4: Rules

Overview

Provision(s)	Officer Recommendation(s)
Rule Framework	Retain
HS-R1	Amend to include 'and alteration' in the heading title
HS-R2	Retain
HS-R3	Retain
HS-R4	Retain
HS-R5	Retain
HS-R6	Retain
HS-R7	Retain
HS-R8	Retain
HS-R9	Retain
HS-R11	Retain

Analysis of Submissions on Key Issue 4

Matters raised in submissions

Rule Framework

77. Top Energy Ltd (S483.119) opposed the rule framework in the PDP. Top Energy supports the approach taken by Whangārei District Council in respect of their hazardous substances chapter, which proposes to retain objectives and policies relating to hazardous substances but deletes any rules relating to hazardous substances. Top Energy submits the WDC's approach is consistent with the 2017 RMA amendments which removed the explicit function for local authorities to control the adverse effects of the storage, use, disposal, and transportation of hazardous substances.
78. Ngā Tai Ora - Public Health Northland (S516.050), Ngā Tai Ora submitted the RMA has an important role to play in managing the location of land uses which store, use, transport and dispose of hazardous substances, identifying and assessing the risks and, where necessary, requiring these risks be avoided, remedied or mitigated to achieve the purpose of the RMA. Ngā Tai Ora sought new rules be added for the management storage, use, transport and disposal of hazardous substances in the Far North District. At a minimum these should include (but is not limited to) the inclusion of rules managing:
 - a. *'the establishment or expansion of facilities managing, storing, using or disposing of hazardous substance within, or in close proximity to, sensitive environments (e.g., residential areas or adjacent to schools or health care facilities and hospitals);*



- b. *the establishment of sensitive activities (e.g. residential activities, marae schools or health care facilities and hospitals) adjacent to or within close proximity to, lawfully established HSF;*
79. *The establishment or expansion of facilities managing, storing, using or disposing hazardous substances in areas that may increase the risk of accident or adverse effects on public health and safety, and the environment (e.g., in areas subject to natural hazards or adjacent to sensitive natural environments or habitats); and appropriate limits or thresholds for the storage of certain hazardous substances across the various zones in the PDP.'*
80. Transpower (S454.075 and 454.076) submitted on two matters with respect to the National Grid Yard and hazardous substances:
- a. S454.075 - The use, storage or disposal of hazardous substances in greater than normal household usage quantities within the National Grid Yard poses a potentially significant health and safety risk to people and communities. Transpower sought a new Hazardous substances rule that limits the use, storage or disposal of hazardous substances to normal household use volumes within the National Grid Yard as a permitted activity, the rule as drafted by Transpower is as follows:
- 'HS-Rx The use storage or disposal of hazardous substances near the National Grid*
- All Zones Activity status: Permitted*
- Where:*
- HH. Normal household usage volumes of hazardous substances are used, stored or disposed of.*
- Activity status when compliance not achieved with HS-RX: Non-complying'*
- b. S454.076 - Hazardous facilities located within the National Grid Yard can pose a potentially significant health and safety risk to people and communities. Transpower sought any new hazardous facility within 12m of the centre line of a National Grid Transmission line be a non-complying activity; the rule as drafted by Transpower is as follows:

HS-Rx New significant hazardous facility in the National Grid Yard

All Zones

Activity status: Non-complying



HS- R1

81. The Oil companies (S335.005) support HS-R1 in part, submitting it was unclear whether HS-R1 is intended to capture other activities such as alterations, upgrades and changes. They noted the section 32 report indicates the intention of the rule is to "enable maintenance, repair and alteration¹ of SHF to occur as a permitted activity provided there is no increase in residual risks". They suggest an amendment to the title to include the word 'and alteration'.
82. Federated Farmers (S421.084) supported retaining HS-R1 as currently drafted. Accordingly, I have not analysed this submission.

HS- R2

83. Fletcher Building Ltd (S342.020) submitted the new Heavy Industry Zone has been applied to an area which was previously zoned Rural Production. As a result, Fletcher Building seek the rule should only apply to sensitive activities which are not within the Heavy Industrial Zone as the new zone should have precedence.
84. FENZ (S512.024) support in part HS-R2. FENZ submitted the rule setting provides for and considers the proximity between sensitive land uses and SHF. However, FENZ were of the view more consideration should be given to sites that store substantial quantities of substance that release a toxic or flammable gas (e.g. chlorine or ammonia gas) or where the substance could cause an explosion during a fire (e.g. ammonia nitrate). They sought a greater setback than the 205m from a sensitive activity, as set out in HS-R2. FENZ suggested a setback of between 500-1000m or more, away from a sensitive activity.
85. Federated Farmers (S421.085) support HS-R2 as drafted. Accordingly, I have not analysed this submission further.
86. MOE (S337.037) supports HS-R2 and the establishment of a new SHF in the Light Industrial zone, Rural Production zone, Ngawha Innovation and Enterprise Park zone. MOE submits SHF facilities should be set back from sensitive activities, including educational facilities and preschools. Accordingly, I have not analysed this submission further.
87. Nga Ta Ora Public Health Northland (S516.051) support in part HS-R2 specifically, separating SHF from sensitive activities and sensitive environments but submitted there was no justification for the proposed minimum 250m setback. They sought FNDC undertake a technical assessment to confirm if the proposed 250m separation is sufficient to manage the risk to public health and safety and the environment.
88. Ngati Rangi ki Ngawha Hapu (S304.005) and Ngati Rangi ki Ngawha (S515.010) submitted that the fertility of our soils from Papatūānuku

¹ S42A underlining, not submitters



allows the region to be a produce leader. Ngāti Rangi wishes to maintain the fertility of soils as part of the gifts from Papatūānuku. The main issue for Ngati Rangi ki Ngawha Hapu in relation to this chapter is connected with intensive horticultural land use activities, such as market gardens, and impacts on soil structure. The Ngāti Rangi rohe, with its rich volcanic soils, is a market gardening stronghold. They submit market gardens can place pressure on local water bodies through abstractions and discharges and can degrade soil structure and reduce its quality and quantity. The impacts of herbicides, pesticides, and fertilisers are a matter of concern for these submitters.

HS- R3

89. Te Hiku Iwi Development Trust (S399.041), submitted that all rules relating to the establishment of a new SHF in all other zones, should include a setback to ensure they are not located immediately adjacent to a sensitive environment and sought HS-R3 be amended to include the words *'or within 100m of the coastal environment'* in the title.

HS- R4

90. Te Hiku Iwi Development Trust (S399.042) Te Hiku Iwi Development Trust (S399.041), submitted all rules relating to the establishment of a new SHF in all other zones, should include a setback to ensure they are not located immediately adjacent to a sensitive environment and sought HS-R4 be amended to include the words *'or within 100m of an natural feature or landscape'* in the tile.

HS-R5

91. Te Hiku Iwi Development Trust (S399.043) submitted all rules relating to the establishment of a new SHF in all other zones should include a setback to ensure they are not located immediately adjacent to a sensitive environment and sought HS-R5 be amended to include the words *'or within 100m of a scheduled site and/or areas of significant to Māori'*.

HS-R6

92. Te Hiku Iwi Development Trust (S399.044) submitted all rules relating to the establishment of a new SHF in all other zones should include a setback to ensure they are not located immediately adjacent to a sensitive environment and sought HS-R6 be amended to include the words *'or within 100m of a significant natural area'* in the title.
93. Federated Farmers (S421.086) supports the intent of the additional measures of protection provided by the rules which propose to make certain activities related to significant hazardous facilities non-complying.
94. However, they submit the definition for SHF captures activities that potentially occur on farms, such as milk processing plants and the manufacturing, including the associated storage, of hazardous substances



(including agrichemicals, fertilisers, acids/alkalis, or paints). Federated Farmers sought the rule be amended to discretionary, with the default status for activities not meeting the rule to be non-complying

HS R7-HS R8 and HS-R9 and R11

95. HS-R7 - Te Hiku Iwi Development Trust (S399.045) submitted all rules relating to the establishment of a new SFH in all other zones should include a setback to ensure they are not located immediately adjacent to a sensitive environment and sought HS-R7 be amended to include the words *'or within 100m of a flood hazard area'*.
96. HS-R7 - Federated Farmers (S421.087) supports the definition of a SFH and supports the intention to make some activities non-complying but submits the definition captures activities that potentially occur on farms, such as milk processing plants and the manufacturing, including the associated storage, of hazardous substances (including agrichemicals, fertilisers, acids/alkalis, or paints). Federated Farmers seek the rule be amended to discretionary rather than non-complying, thus allowing the Council to set the appropriate matters of discretion for controlling SHF within a significant natural area, and flood or coastal hazard areas.
97. HS-R7 and HS-R8 - Nga Ta Ora Public Health Northland (S516.053) support the non-complying activity status for proposed rules HS-R7 and R8. Accordingly, I have not analysed this submission.
98. HS-R8 and HS-R9 - Te Hiku Iwi Development Trust (S399.46-047) submitted all rules relating to the establishment of a new SFH in all other zones should include a setback to ensure they are not located immediately adjacent to a sensitive environment and sought HS R8 and HS-R9 be amended to include the words *'or within 100m of a coastal hazard area'* and *'or within 100m of a scheduled heritage resource'*.
99. HS-R11- MOE (S331.039) supports Rule 11 the new sensitive activities rule, on the basis educational facilities and preschools should not be located adjacent to significant hazardous facilities. There was also support for the 250m setback from an existing SHF to manage adverse effects to school students and staff and to manage reverse sensitivity effects. Accordingly, I have not analysed this submission.
100. HS-R11 -Nga Tai Ora Public Health Northland (S516.052) supports the setback of SFH from sensitive activities and environments and seeks the rule is retained. Accordingly, I have not analysed this submission.

Analysis

Rule Framework

101. Top Energy's request to remove the rule framework is based on WDC's August 2022 plan change. I have looked at a number of other Council



plans and proposed district plans. WDC is in a minority with their approach. The FNDC approach is similar, for example, to NPDC and NDC Councils who are going through the District Plan process.

102. I agree in part with Top Energy's submission, namely the 2017 RMA has removed the "*explicit function for local authorities to control the adverse effects of the storage, use, disposal, and transportation of hazardous substances*".
103. The Resource Legislation Amendment Act 2017 (RLAA) pursuant to section 30 and 31 removed regional and territorial authorities functions to control the adverse effects of the storage, use, disposal and transportation of hazardous substances so there were not duplication controls in HSNO and HSW. The amendment allows regional and territorial authorities to regulate hazardous substances through District Plans, while overall governance is managed via the HSNO, HSW, and associated regulations. Further management and control are included in the Northland Regional Policy statement, the Land Transport Act 1998, Building Act 2004 and the Radiation Safety Act 2016. The provisions of this chapter are, designed to manage relevant effects of use, storage, or disposal of hazardous substances, where those effects are not appropriately controlled by existing legislation and regulations. The policies and rules are designed to manage risk and reverse sensitivity issues from SHF not duplicate the functions as set out in the HSNO, HSW and Regulations as managed by Worksafe.
104. The WDC's plan relies solely on the controls and mechanisms contained in the HSNO and HSW to manage the adverse effects of hazardous substances in the Whangarei District. While this is an option that can be considered, the PDP seeks to manage the residual risks that aren't managed by that legislation, including conflicts between uses, sensitivity effects and others outlined above.
105. It is not the purpose of HSNO and HSW to address nor manage the conflicts between the uses. The rule framework enables and gives effect to the objectives and policies and to ensure the potential risks of hazardous substances is adequately address as required by the 2017 RMA amendment.
106. On this basis I recommend Top Energy's submission is rejected.
107. Ngā Tai Ora - Public Health Northland requested the plan be amended to add new rules for the management storage, use, transport and disposal of hazardous substances in the Far North District. As discussed in paragraph 101, the 2017 RMA removed the "*explicit function for local authorities to control the adverse effects of the storage, use, disposal, and transportation of hazardous substances*". The Resource Legislation Amendment Act 2017 removed regional and territorial authorities functions to control the adverse effects of the storage, use, disposal and



transportation of hazardous substances so there were not duplication controls in HSNO and HSW. The submission seeks to duplicate that which is already provided for in HSNO and HSW and I recommended it is rejected.

108. The PDP was notified in 2022. Transpower made submissions in respect of the Hazardous substances chapter in 2022. Since then, the S42A for the Infrastructure chapter has been written by Mr Jerome Wyeth. The Infrastructure chapter has recommended a new detailed policy (I-PY) to protect the safe and efficient operation, maintenance and repair, upgrading, removal and development of National Grid with specific direction in relation to activities in the national Grid Yard and this would include SHF, use storage or disposal of HS. The policy is supported and given effect by I- R-11, non-complying (3) states:²

- a. A building used for the handling or storage of hazardous substances (Hazardous Substances (Hazard Classification) Notice 2020) with explosive or flammable intrinsic properties (except this does not apply to the accessory use and storage of hazardous substances in domestic-scale quantities).

109. Given the work undertaken in the Infrastructure chapter. a new rule is not necessary nor is any amendment to the rule framework. I recommended this submission is accepted in part.

HS- R1

110. The Oil companies submitted HS-R1 was not clear as the wording in the rule and title did not reflect the wording in the section 32 Report which states to "*enable maintenance, repair and alteration³ of Significant Hazardous Facilities to occur as a permitted activity provided there is no increase in residual risks*". I agree the title needs to be amended to include the word 'and alteration' to reflect the s32 Report. Federated Farmers are seeking no change to the rule. I recommend no change to HS-R1, other than to the title.

HS- R2

111. While I agree that new industrial land resource is a vital resource. I recommend that the Fletcher Building Ltd submission, seeking a new zone should have precedence, be rejected. The RMA provides for an 'existing use rights' regime and any lawfully established sensitive activities retain their rights to continue to operate in an unfettered manner. Establishing a new SHF will not be able to impose restrictions on existing lawfully established activities. Similarly, a proposal that exempts SHF in new zones from complying with the provisions could result in significant adverse

² I-R-11 non-complying (3) is a redrafted Rule being recommended by Mr Jerome Wyatt the S42A report writer and was discussed with Transpower as part of the Infrastructure pre hearing meetings, discussed at paragraph 278 of Mr Wyatt's s42A Infrastructure report

³ S42A underlining, not submitters



effects. To apply a blanket exemption is not appropriate, the result would be individual activities would not face scrutiny and potential effects and risks could not be managed effectively.

112. FENZ and Nga Ta Ora Public Health Northland submissions to HS-R2 are recommended to be rejected. Both disputed the 250m setback. FENZ sought a greater setback while Nga Ta Ora Public Health Northland submitted there was no justification for the 250m setback. I recommend rejecting both submissions on the setback. My analysis indicates that the 250m setback in the PDP is consistent with setback requirement in other district plans, for example the recent Proposed New Plymouth District Plan. There is no evidence to suggest that a greater set back is required, or a technical assessment is necessary to justify why FNDC should go beyond (or reduce) what is proposed in the PDP.
113. Ngati Rangi ki Ngawha Hapu and Ngati Rangi ki Ngawha submissions relate to the use and storage of herbicides, pesticides, and fertilisers in respect of market gardens. It is accepted, market gardens and the production of foods are important for the Far North region. However, the use of herbicides, pesticides, and fertilisers and where they are stored, do not fall within the definition of SFH. This chapter is addressing hazardous substances as defined by the HSNO Act. The definition is the same as set out in the overview of what amounts to a hazardous substance, i.e. "*have hazardous properties such as explosiveness, flammability or corrosiveness (among other factors)*". In addition, these substances are unable to be managed by the PDP. On this basis I recommend that both submissions be rejected.

HS-R3- HS-R6

114. I also recommend that the submission from Te Hiku Iwi Development Trust, in respect of HS-R3 - HS-R6, be rejected. It is unclear what benefit any of the amendments of a 100m setback would have, as the activity addressed in those rules are non-complying activities.
115. I recommend the submission of Federated Farmers be rejected in respect of HS-R6. There is not sufficient evidence to analyse why these activities are treated differently and how agrichemicals, fertilisers, acids/alkalis, or paints would be considered a SHF in the PDP.

HS-R7- HS R9

116. I recommend that the submission from Te Hiku Iwi Development Trust, in respect of HS-R7 - HS-R9, are rejected. It is unclear what benefit any of the amendments of a 100m setback would have, as the activity addressed in those rules are non-complying activities.
117. As in paragraph 113, I recommend the submissions of Federated Farmers relating to HS7-R9 are rejected. There is not enough evidence to analyse



why these activities should be treated differently and how agrichemicals, fertilisers, acids/alkalis, or paints would be considered a SHF in the PDP.

Recommendation

- 118. I recommend the rule framework be retained as notified.
- 119. I recommend an amendment to the title of HS-R1 title, to include the word 'and alteration'.
- 120. I recommend retaining HS-R2 - R11.

6 Conclusion

- 121. This report has provided an assessment of submissions received in relation to the Hazardous substance chapter. The primary amendments that I have recommended relate to:
 - a) An amendment to the definition of hazardous substance.
- 122. Section 5.3 considers and provides recommendations on the decisions requested in submissions. I consider that the submissions on the Hazardous substances chapter should be accepted, accepted in part, rejected or rejected in part, as set out in my recommendations of this report and in Appendix 2.
- 123. I recommend that provisions for the Hazardous substances matters be amended as set out in the Hazardous substances chapter in Appendix 1 below for the reasons set out in this report

Recommended by: Lynette Morgan Policy Planner

Approved by: James R Witham – Team Leader District Plan, Far North District Council.

Date: 22.05.2025