



**PROPOSED FAR NORTH DISTRICT PLAN
RECOMMENDATIONS OF THE INDEPENDENT HEARINGS
PANEL**

RECOMMENDATION REPORT 13

Hearing 13: Hazards and Risk

March 2026

Recommendation Report 13

Recommendation Report 13 is to be read in conjunction with the **Preamble Report** and **Recommendations Reports 1, 4, and 16**.

Recommendation Report 13 contains the Panel's recommendations on: Part 2 – District-Wide Matters - Hazards and Risks - Natural Hazards and Hazardous substances. It also contains recommendations on Coastal Hazard Rules in the Coastal Environment Chapter.

Recommendation Report 13 contains consequential amendments resulting from recommendations from other recommendation reports.

Recommendation Report 13 also contains the following appendices:

Appendix 1: Schedule of Hearing Attendances

Appendix 2: Hearings Panel Recommended Amendments to the PDP – tracked from notified version (provisions not subsequently renumbered) amendments to the following:

Appendix 2.1 Natural Hazards Chapter

Appendix 2.2 Coastal Hazard Rules in the Coastal Environment Chapter

Appendix 2.3 Hazardous Substances Chapter

Appendix 3: Summary table of the Hearings Panel recommended decisions on each submission point including:

Appendix 3.1 Recommended Decisions on Submissions - Natural Hazards

Appendix 3.2 Recommended Decisions on Submissions - Hazardous Substances

The Independent Hearings Panel for this hearing comprised Robert Scott – Independent panel member and Chairperson; Felicity Foy – Council member; and Peter Kensington – Independent panel member.

Contents

1.	Introduction.....	1
1.1	Report Structure.....	1
1.2	Section 32AA of the RMA.....	1
1.3	Consequential Amendments	1
2.	Procedural Issues	2
2.1	National Planning Instruments	2
3.	Topic 1: Natural Hazards	2
3.1	Relevant Provisions	2
3.2	Link between the Relevant PDP and the RPS Provisions.....	2
3.3	Hearings Panel Recommendations	4
3.4	Overview of Submissions Received	5
3.5	Key Issues	5
3.6	Key Issue 1 – New objective for existing infrastructure.....	6
3.6.1	Matters Raised in Submissions.....	6
3.6.2	Hearings Panel Evaluation.....	6
3.6.3	Hearings Panel Recommendations	6
3.7	Key Issue 2 – Rules and Standards.....	6
3.7.1	Matters Raised in Submissions.....	6
3.7.2	Hearings Panel Evaluation.....	8
3.7.3	Hearings Panel Recommendations	8
3.8	Key Issue 3 – Mapping of Natural Hazards.....	9
3.8.1	Matters Raised in Submissions.....	9
3.8.2	Hearings Panel Evaluation.....	9
3.8.3	Hearings Panel Recommendations	9
3.9	Key Issue 4 – Questions from the Panel	10
3.9.1	Hearings Panel Recommendations	11
3.10	Definitions and Consequential Amendments.....	11
4.	Topic 2: Hazardous Substances.....	11
4.1	Relevant Provisions	11
4.2	Overview of Submissions Received	11
4.3	Key Issues	11
4.4	Key Issue 1 - Rule HS-R2 – Establishment of a New Significant Hazardous Facility..	12
4.4.1	Matters Raised in Submissions.....	12
4.4.2	Hearings Panel Evaluation.....	12
4.4.3	Hearings Panel Recommendations	13

4.5	Key Issue 2: Significant Hazardous Facilities (SHF) within a significant natural area (rule HS-R6), or within a flood hazard zone (rule HS-R7), or within a scheduled heritage resource (rule HS-R9)	13
4.5.1	Matters Raised in Submissions	13
4.5.2	Hearings Panel Evaluation	13
4.5.3	Hearings Panel Recommendations	13
4.6	Key Issue 3 - Response to Questions at the Hearing raised by the Panel	14
4.6.1	Hearings Panel Recommendations	14
5.	Conclusion	14

RECOMMENDATION REPORT 13

1. Introduction

1.1 Report Structure

This is **Recommendation Report 13** prepared by the Independent Hearings Panel appointed to hear and make recommendations with respect to submissions and further submissions lodged on the Proposed Far North District Plan (**PDP**).

This report makes findings and recommendations relating to submissions on the objectives, policies, rules and mapping in the following sections of the PDP:

This recommendation report makes findings and recommendations relating to submissions on the provisions in the following parts, sub-parts, chapters and sections of the PDP.

PDP Part	PDP Sub-Part	PDP Chapter
Part 2 – District-Wide Matters	Hazards and Risks	Natural Hazards
		Hazardous substances
	General District-Wide Matters	Coastal environment - Rules CE-R10-R12

1.2 Section 32AA of the RMA

The requirements in clause 10 of the First Schedule of the Act and s32AA RMA are relevant to our considerations of the PDP provisions and the submissions received on those provisions. These are outlined in full in the **Preamble Report**.

We have not produced a separate evaluation report under s32AA. Where we have adopted the recommendations of hearing report authors, we have adopted their reasoning, unless expressly stated otherwise. This includes the s32AA assessments within or attached to the relevant hearing reports, provided within evidence for Submitters, and/or within the Council’s right of reply reports. Those reports are part of the public record and are available on the Council website.

Where our recommendation differs from the hearing report authors’ recommendations, we have incorporated our s32AA evaluation into the body of our recommendation report as part of our reasons for recommended amendments, as opposed to including this in a separate table or appendix.

As per Section 4.2 of the **Preamble Report** where we generally agree with the Council recommendations relating to the relief sought by those submitters who did not wish to speak at the hearing, we have concluded that these matters are not in contention. In that regard, we have focussed our discussion in this recommendation report on those submitters who presented evidence to us.

1.3 Consequential Amendments

This recommendation report contains consequential amendments, including to or from other plan chapters. These are discussed further in this report.

2. Procedural Issues

2.1 National Planning Instruments

As discussed in section 3.2 and 3.3 in the **Preamble Report**, where any national policy or environmental standard was notified prior to the hearing, these provisions have been incorporated in the hearing report and addressed at the hearing and in our evaluations and recommendations. With regard to the ten national policy statements and environmental standards that came into effect on 15 January 2026 (i.e. after all hearings had been completed), we have determined (following legal advice) that the Council can only give effect to those documents through a Schedule 1 variation or plan change process. See also Minutes 40-42 which address this matter.

In response to Minute 41, Kiwi Fresh Orange Limited provided a legal memorandum with commentary on the new NPS-NH. We note that Kiwi Fresh Orange Limited agrees with the Council that giving effect to the entirety of the NPS-NH at this stage of the PDP would be difficult as the risk matrix approach in the NPS-NH is reliant on information that is not all currently available.

3. Topic 1: Natural Hazards

3.1 Relevant Provisions

The relevant provisions we address for this topic concern the overview, objectives, policies and rules of the Natural Hazards chapter.

In addition, this topic considers the coastal hazard rules under the Coastal Environment chapter, being assessed separately to the submissions and evidence considered at Hearing 4.

We note that the coastal hazard rules are to be incorporated into the Coastal Environment chapter but we have attached them as a separate document to this report at this stage, as the Council will need to make a number of structural and numbering changes to achieve this integration.

3.2 Link between the Relevant PDP and the RPS Provisions

It is noted that the PDP provisions relating to flood hazards, including coastal flood hazards, are based on information provided by the Northland Regional Council (**NRC**) through the Regional Policy Statement (**RPS**) for Northland – with a clear policy directive in the PDP to establish this link.

We heard from some submitters that it may be difficult to update the PDP in response to any updates made by the NRC to the relevant RPS provisions. However, we have proceeded on the basis, as recommended by the Council officers, that a RMA Schedule 1 process would be required to update the relevant district plan provisions in response to such updates.

Following receipt of the Council's right of reply, we sought clarification from the Council officers regarding this issue, by asking the following three questions relating to the process for updating natural hazard mapping and whether, as an alternative (within the scope of the

submission point from the NRC at S359.013), this information could be included as a non-statutory layer in the PDP without changing the rule framework and to ensure that the most up to date hazard mapping informs future decision making:

Question 1: Can the natural hazard mapping be moved to a non-statutory layer that is referenced by the District Plan and, if so, would this impact the currently proposed rule framework?

Question 2: Should the related definitions for specific natural hazards reference the NRC mapping as at a specified date (given that, as we understand it, these maps can be updated from time to time)?

Question 3: What is meant by “...options to streamline future updates of natural hazard mapping in the PDP...” as stated at paragraph 63(a) of the reply?

We received a memorandum in response to the above questions from the Council Reporting Officer (Mr Wyeth) dated 11 September 2025 which carefully considered these points.

In response to Question 1 it was Mr Wyeth’s advice to us that, while there may be benefits in having natural hazard mapping sitting outside the district plan as a dynamic non-statutory layer, the RPS does not currently provide for or allow this option to occur for Districts within the Northland Region.

In response to Question 2 Mr Wyeth recommended that the PDP definition for natural hazards could include a note to state:

The mapping of [river flood hazard area] in the District Plan maps is based on the most-up-to date Northland Regional Council mapping when the District Plan was notified. A person may provide a more detailed site-specific assessment prepared by a suitably qualified and experienced engineer to confirm the extent, depth and flow characteristics of the river flood hazard and may also refer to any more recent mapping undertaken by the Northland Regional Council.

He also recommended that the advice notes in the Natural Hazards chapter and the Coastal hazard rules subsection (relating to assessments of natural hazards by a suitably qualified and experienced engineer) could also make it explicit that this can include an updated, more recent assessment of the relevant natural hazard and/or utilise more recent natural hazard mapping by Northland Regional Council.

In response to Question 3, Mr Wyeth helpfully provided the following explanation:

This statement in paragraph 63(a) of my right of reply was intended to recognise that the PDP must give effect (i.e. implement) to the RPS. Therefore, future changes to update the natural hazard maps in the district plan (without any changes to the provisions) to give effect to RPS maps (once operative) should be a relatively straightforward process as the ability to challenge the mapping would be limited. Options to streamline this process could include:

- a. *NRC and Council consulting with communities on new hazard mapping together with the aim of increasing knowledge, buy-in and support and to help streamline the statutory Schedule 1 process;*

- b. *Incorporate updates to natural hazard mapping through other plan changes; and*
- c. *Clear communications on the need to give effect to RPS and include NRC natural hazard maps in the district plan and limited discretion in how this is done (with the aim of discouraging unnecessary challenges in submission).*

Mr Wyeth acknowledged that none of these options can remove the administrative time and effort associated with the Schedule 1 plan change process under the RMA, but opined that it may assist in achieving some efficiencies.

From the above exchange, we have determined that no changes are required to the approach adopted by the Council in referencing the NRC, RPS flood hazard information. However, we agree with the suggestion that a note be added to the definition of "natural hazards" (being the text as set out above) and advice notes be added to the Natural Hazards chapter and the Coastal hazard rules subsection (also as set out above).

3.3 Hearings Panel Recommendations

1. For the reasons set out above, the Hearings Panel recommends the definition of "natural hazard" include a note as follows:

NATURAL HAZARD

has the same meaning as in section 2 of the RMA (as set out below)

means any atmospheric or earth or water related occurrence (including earthquake, tsunami, erosion, volcanic and geothermal activity, landslip, subsidence, sedimentation, wind, drought, fire, or flooding) the action of which adversely affects or may adversely affect human life, property, or other aspects of the environment.

Note:

The mapping of hazard areas in the District Plan maps is based on the most-up-to date Northland Regional Council mapping when the District Plan was notified. A person may provide a more detailed site-specific assessment prepared by a suitably qualified and experienced engineer to confirm the extent, depth and flow characteristics of the river flood hazard and may also refer to any more recent mapping undertaken by the Northland Regional Council.

The note is also recommended to be included in the Natural Hazards chapter and within the coastal hazard rules in the Coastal environment chapter.

The definition above is included in **Appendix 2.1 – Definitions of Recommendation Report 17.**

The amendments recommended above are identified in **Appendices 2.1 and 2.2.**

3.4 Overview of Submissions Received

A total of 321 original submissions and 514 further submissions were received on the Natural Hazards topic.

As set out in the hearing report the main submissions on the Natural Hazards topic came from:

- A range of private individuals, landowners and businesses affected, or potentially affected, by natural hazards;
- Planning and engineering firms, including Northland Planning and Development (S502), Thomson Survey (S204) and Haigh Workman (S215);
- Infrastructure providers, including Transpower (S454), Top Energy (S483), the Telco Companies (S282), KiwiRail (S416) and Waka Kotahi - NZTA (S356);
- Central and local government organisations, including NRC (S359) and Ministry Of Education (MOE) (S331);
- Environmental organisations, including Forest and Bird (S511), Kapiro Conservation Trust (S446), Carbon Neutral Trust (S529) and Vision Kerikeri (S524); and
- Primary sector submitters, including Federated Farmers (S421) and HortNZ (S159).

In response to submission points, the hearing report recommended largely retaining the objectives and policies of the PDP as notified, with some minor amendments, as well as specific amendments to a number of the notified version of the natural hazard rules.

We record that representatives from the Carbon Neutral Trust appeared at Hearing 13 to provide us with information regarding flooding and mitigation measures within the Kerikeri catchment, stressing the importance of a pre-cautionary approach to the issue. We found this information very helpful, including the expert engineering report prepared by PK Engineering, provided by this submitter, which highlighted that the Kerikeri-Waipapa area is subject to frequent flood risk.

3.5 Key Issues

The recommendations within the hearing report on submission points were based on comprehensive analysis (supported by specific technical advice provided by relevant experts at Tonkin + Taylor) of the relevant issues and we agree with the majority of those recommendations. As such, we have not repeated all considerations in our discussion below, given that we largely adopt the recommendations of the Hearing Report. Where we differ in our recommendations, including to those of the Council's right of reply, we have highlighted these and provide our reasoning within each discussion point.

As summarised at section 3 of the Council's right of reply, submissions and evidence presented or tabled at the hearing by Federated Farmers, the Fuel Companies, John Riddell and KiwiRail confirmed general support for the hearing report recommendations.

The key issues that remained in contention at the hearing and which were the subject of submissions and evidence for our consideration are those that have been identified in the right of reply. We have therefore followed the structure of the right of reply on the key issues to be addressed for the Natural Hazards topic, as set out below.

- Key Issue 1: New objective for existing infrastructure
- Key Issue 2: Rules and standards
- Key Issue 3: Mapping of natural hazards
- Key Issue 4: Questions from the Panel

Our assessment, evaluation and recommendations on each issue follows.

3.6 Key Issue 1 – New objective for existing infrastructure

3.6.1 Matters Raised in Submissions

Mr Badham provided planning evidence to support the submission from Top Energy (S483.110), which continued to request that a new objective be included in the Natural Hazards chapter which states:

“The operation, maintenance, repair and upgrade of existing infrastructure within areas subject to identified natural hazards is enabled to ensure a resilient and reliable network”.

The Council’s right of reply considered this evidence and maintained that such an objective is not required because there is a clear connection between policy NH-P10 (in the Natural Hazards chapter) and the outcomes anticipated by objective I-O1 (in the Infrastructure chapter) which seek to ensure that the Far North District has resilient infrastructure. It was the reporting officer’s evidence to us that the addition of the objective suggested by Mr Badham would create duplication of planning policy within the PDP and was not required.

3.6.2 Hearings Panel Evaluation

Throughout our evaluation of submissions to the PDP and evidence received at the hearings, we have taken a consistent approach that the PDP needs to be read as a whole and to avoid unnecessary duplication of provisions where possible. In that regard, we agree with the analysis and recommendation set out in the right of reply and do not agree with Mr Badham (for Top Energy) that the suggested objective is required.

3.6.3 Hearings Panel Recommendations

As we agree with the right of reply recommendation on this issue, no changes are required to the proposed wording of the objectives.

Accordingly, we recommend that the submission from Top Energy (S483.110) be rejected.

3.7 Key Issue 2 – Rules and Standards

3.7.1 Matters Raised in Submissions

Rule NH-R2 (extensions and alterations to existing buildings or structures) and Rule NH-R3 (new buildings or structures)

Mr Badham provided planning evidence to support the submission from Foodstuffs (S363.012) and Mr McPhee provided planning evidence to support Waipapa Pine and Adrian Broughton Trust (now Fletcher Building) (S342.007), with both opposing the 10m² Gross Floor Area footprint thresholds for buildings and structures within the NH-R2 and

NH-R3 rules. Mr McPhee suggested that the provisions of rule NH-R3 PER-1 should not apply to land within the Heavy Industrial zone.

The Council's right of reply analysed these suggestions but ultimately did not support the changes sought for a variety of reasons, including the lack of an alternative provided by Mr Badham and the distinction between the specific provisions of the natural hazards chapter (which seek to address natural hazard risk from flooding, for example) and the lack of similar provisions within underlying zones.

Telecommunication Facilities

Mr Horne provided planning evidence to support the Telco Companies¹ submissions (S282.007-009) seeking a more permissive framework for telecommunications infrastructure within the natural hazards provisions. Essentially, it was Mr Horne's evidence to us that the National Environmental Standards for Telecommunication Facilities 2016 (NES-TF) except such matters. He suggested various further amendments to rules NH-R3 and NH-R9 alongside similar edits to the relevant coastal hazard rules at CE-R12 and CE-R16.

The Council's right of reply broadly supported these suggestions and has recommended amendments to rules NH-R3 and CE-R12 to permit telecommunications poles including any attached antennas, ancillary equipment or line, that are not currently regulated under the NES-TF. However, the reporting officer did not recommend amending rules NH-R9 and CE-R16.

Rule NH-R4 (new buildings or structures (excluding buildings used for a residential activity) ancillary to farming)

Ms Brennan on behalf of the submission by Federated Farmers (S421.077) advised us that buildings that were ancillary to farming are often larger than 100m² for efficiency reasons and, responding to questions from the Panel, opined that linking the size to the Building Act 2004 limits (where ancillary farm buildings up to 110m² were provided for) was supportable.

The reporting officer in the right of reply agreed with this suggestion for amending NH-R4 because it makes sense to align NH-R4 with the 110m² thresholds in the Building Act 2004 given the focus of the rule on ancillary farming buildings and this being a relatively low increase to the notified GFA threshold of 100m².

Standard NH-S1 (information requirements)

Mr Badham on behalf of the submission by Top Energy (S483.118) highlighted two key concerns with the Hearing Report's recommendations for standard NH-S1 and suggested that the standard be amended.

Again, the reporting officer in the right of reply agreed with these suggestions and recommended amendments to standards NH-S1 and CE-S5 to make it clear these standards apply in mapped River Flood Hazard Areas and Coastal Hazard Area respectively. The reporting officer also recommended amendments in response to NH-S1,

¹ Telco Companies: Chorus New Zealand Limited, Spark New Zealand Trading Limited, Spark TowerCo Limited, Vodafone New Zealand Limited

CE-S5 and the relevant advice notes so that there is no specific requirement for engineering and expert assessments to evaluate relevant objectives and policies.

3.7.2 Hearings Panel Evaluation

Rule NH-R2 (extensions and alterations to existing buildings or structures) and Rule NH-R3 (new buildings or structures)

We agree with the recommendation within the Council’s right of reply that 10m² in NH-R3 PER 1 is appropriate and that any greater building footprint would be seen as too enabling within a hazard area and would allow an unacceptable level of permitted risk.

We acknowledge that Councillor Felicity Foy recommends that the 10m² building footprint could be increased to 30m² to allow more flexibility. We record her dissenting opinion and advise that this recommendation was a majority decision by the Hearing Panel.

Telecommunications Facilities

We agree with the recommendation within the Council’s right of reply that new PER 3 of NH-R3, relating to telecommunications facilities, is appropriate, with the corresponding consequential amendments to rule CE-R12 also being appropriate.

Rule NH-R4 (new buildings or structures (excluding buildings used for a residential activity) ancillary to farming activity)

We also agree with the recommendation within the Right of Reply Report that the 100m² GFA permitted area be increased to 110m² which is consistent with recommendations we have made on similar issues throughout the PDP consideration (see **Recommendation Report 4**), including rural zones (See **Recommendation Report 9**).

Standard NH-S1 (information requirements)

We also agree with the recommendation within the right of reply that the information requirements at NH-S1 and at CE-S5 be amended as set out within the recommended amendments within **Appendix 2.1 and Appendix 2.2**. This is because the amendments will make it clear that these standards apply in mapped River Flood Hazard Areas and Coastal Hazard Areas respectively; and to confirm that there is no specific requirement for engineering and expert assessments to evaluate relevant objectives and policies.

3.7.3 Hearings Panel Recommendations

We agree with the Council’s right of reply recommendations on the above issues, including the amendments required to the proposed wording of the relevant rules and standards.

Accordingly, we recommend that:

1. No changes be made to Rules NH-R2 and NH-R3 and that the submissions from Foodstuffs (S363.012) and Waipapa Pine and Adrian Broughton Trust (now Fletcher Building) (S342.007) be rejected.
2. An additional permitted activity clause PER-3 (stating “*the structure is a telecommunications pole including any attached antennas, ancillary equipment or line*”) be added to NH-R3 and CE-R12 and that the submission from the Telco Companies (S282.007-009) is accepted in part.

3. The threshold within Rule NH-R4 for the size of new buildings or structures ancillary to farming be increased from 100m² to 110m² and the submission from Federated Farmers (S421.077) be accepted in part.
4. Amendments are made to NH-S1 and CE-S5 to reference “an area” rather than “a site” with the information requirements under NH-S1 to be amended (as set out below) and the submission from Top Energy (S483.118) be accepted in part.

NH-S1 Information requirements – All natural hazards

Any application for a resource consent in relation to an area site that is potentially affected by natural hazards located within a mapped River Flood Hazard Area must be accompanied by a report prepared by a suitably qualified and experienced engineer that addresses the matters identified in the relevant ~~objectives, policies, performance standards and matters of control/discretion.~~

CE-S5 Information requirements – Coastal hazard area

Any application for a resource consent in relation to an area site that is potentially affected by a coastal hazard located within a mapped Coastal Hazard Area must be accompanied by a report prepared by a suitably qualified and experienced engineer that addresses the matters identified in the relevant ~~objectives, policies, performance standards and matters of control/discretion.~~

The amendments are identified in **Appendix 2.1 and Appendix 2.2.**

3.8 Key Issue 3 – Mapping of Natural Hazards

3.8.1 Matters Raised in Submissions

The Council’s right of reply sets out (at paragraphs 45-46) details of statements tabled at the hearing from Elbury Holdings (S541.012) and from Elbury Holdings, Fiona King, LJ King LTD, West Coast Farms and Leah Frieling (S605.003). These statements sought changes to the mapping of natural hazards within the PDP in relation to specific properties, for the reason that more detailed information was available (including from expert engineering reporting) to confirm that the flood risk was no longer a relevant issue.

The reporting officer’s analysis of these submission points, supported by expert advice from Tonkin + Taylor, within the right of reply (at paragraphs 47-49) concluded that there was not enough evidence provided by the submitters to change the recommended mapping. The hearing report (at paragraphs 312-314) also addressed this issue in terms of the fact that the PDP natural hazard maps being based on the NRC RPS mapping, rather than as maps that have been prepared at a detailed scale by the FNDC.

3.8.2 Hearings Panel Evaluation

We agree with the reporting officer’s analysis of these submission points.

3.8.3 Hearings Panel Recommendations

As we agree with the right of reply recommendation on these mapping issues, no changes are required to the PDP mapping of natural hazards in response to these submission

points. It follows therefore that we recommend the submissions from Elbury Holdings (S541.012) and from Elbury Holdings, Fiona King, LJ King LTD, West Coast Farms and Leah Frieling (S605.003) be rejected.

3.9 Key Issue 4 – Questions from the Panel

The Council’s right of reply responded to five questions that the Panel put to the reporting officer during the hearing, with these set out below along with the corresponding responses.

Question 1: Coastal hazard rules and Coastal Environment Chapter considerations

We acknowledge and appreciate the response to this question which confirms that, for the purposes of responding to submissions through hearings, the PDP team agreed that it was preferable for the coastal hazard rules to be considered together with other natural hazard provisions given the strong overlap. For this reason, the submissions on the coastal hazard rules were allocated to Hearing 13 (hazards and risks) rather than Hearing 4 which considered all other submission points on the Coastal Environment Chapter.

Question 2: Clarification of thresholds in NH-R2 and NH-R3

We also acknowledge the response to this question and agree with the Council’s right of reply which confirms this has been addressed as part of Key Issue 2 considerations.

Question 3: Reliance on Building Act 2004 to manage natural hazards

Again, we acknowledge that this question has been answered above under Key Issue 2 and through the section 32 and 42A reports for the Natural Hazards Chapter.

Question 4: Clarification of rules relating to wildfire risk

The Panel raised an issue in relation to rules NH-R5 and NH-R6 as to the focus of the rules on “*vulnerable activities*” rather than with reference to “*residential units*”. The Council’s right of reply confirmed that ‘vulnerable activity’ is defined in the PDP as meaning “*residential activities, care facilities (including day care centres), retirement villages, visitor accommodation, marae and medical facilities with overnight stay facilities*”. The reporting officer confirmed that the intent of this definition is to capture those activities most vulnerable to natural hazards, including residential units, whereby more specific (and stringent) requirements apply. For this reason, the reporting officer considered that it is appropriate for NH-R5 and NH-R6 to apply to buildings used for vulnerable activities as defined in the PDP to capture additional vulnerable activities in addition to residential units.

We agree with the reporting officer for the reasons set out in the right of reply.

Question 5: Process to update natural hazard mapping

The Council’s right of reply included an initial response to the above issue, where the reporting officer confirmed his opinion that it is much more certain and effective for natural hazard mapping to be included in the PDP as a regulatory layer given these maps are supported by regulatory rules and policy direction. Following initial deliberations, the Panel required further clarification of this issue – as per the discussion under section 3.2 of this report.

3.9.1 Hearings Panel Recommendations

No further changes are required to the provisions as a result of the above responses.

3.10 Definitions and Consequential Amendments

We also note here that we agree with the definition of "Coastal Hazard Area" and "Land Susceptible to Instability" as set out in the appendix to the hearing report for this topic. These are included in the finalised Definitions in **Appendix 2.1 of Recommendation Report 17**).

In addition, consequential amendments arise in relation to rules SUB-R8; SUB-R11 and SUB-R12, the Subdivision chapter. These were recommended by the reporting officer in including the hearing report; and we agree. These provisions are identified in **Appendix 2.1 of Recommendation Report 16**.

4. Topic 2: Hazardous Substances

4.1 Relevant Provisions

The relevant provisions we address for the Hazardous substances topic concern the overview, objectives, policies and rules of the Hazardous substances chapter.

4.2 Overview of Submissions Received

A total of 13 original submissions (with 48 individual submission points) and 14 further submissions (with 74 individual submission points) were received on the Hazardous substances topic.

As set out in the hearing report the main submissions on the Hazardous substances topic came from:

- The Oil Companies (S335);
- Power companies including Transpower (S454) and Top Energy Ltd (S483);
- Primary sector, including Horticultural NZ (S159) and Federated Farmers (421);
- Iwi and Hapu, including Te Hiku Iwi Development Trust (S304), Ngati Rangī ki Ngawha Hapu (S304) and Ngati Rangī ki Ngawha (S515); and
- Government agencies, including Ngā Tai Ora - Public Health Northland (S516) and Ministry of Education (S337).

4.3 Key Issues

The key issues identified in the hearing report followed the structure of the chapter and considered the overview, objectives, policies, rules and related definition. There were not many submission points that sought fundamental changes to the proposed provisions, with the hearing report recommending only minor changes in response to submissions.

Equally, matters raised by submitters and in evidence at the hearing were relatively focussed on a small number of key issues and we have followed the right of reply structure in discussing the key issues and in making our recommendations.

The key issues include:

- Key Issue 1- Rule HS-R2 – establishment of a new Significant Hazardous Facility
- Key Issue 2 - Significant Hazardous Facilities (SHF) within a significant natural area (rule HS-R6), or within a flood hazard zone (rule HS-7), or within a scheduled heritage resource (rule HS-R9)
- Key Issue 3 - Response to questions at the hearing raised by the Panel.

We have concentrated on making an assessment, evaluation and recommendations for the above key issues. For all other provisions, including the recommended amendment to the definition of Significant Hazardous Facility (as recommended by the reporting officer at Appendix 1.2 of the Hearing Report), given these were not in contention at the hearing, we confirm our agreement with the recommendations within the hearing report. This definition is included in **Appendix 2.1 Definitions in Recommendation Report 17.**

4.4 Key Issue 1 - Rule HS-R2 – Establishment of a New Significant Hazardous Facility

4.4.1 Matters Raised in Submissions

Paragraphs 83-88 of the hearing report set out a summary of the relevant submission points made on rule HS-R2 relating to the establishment of a new significant hazardous facility within the Heavy Industrial zone, noting that such a facility is permitted if it is not located within a sensitive environment or setback at least 250m from a sensitive activity. Similar provisions are set out within the rule where a new significant hazardous facility is seeking to establish within the Light Industrial, Rural Production or Ngawha Innovation and Enterprise Park zones – where these would be at least discretionary activities.

We acknowledge the attendance by Jo-Anne Cook-Munro at the hearing to support the submission points of Federated Farmers (S421.085), including largely accepting the hearing report recommendations, including in relation to rule HS-R2.

Tabled planning evidence from Mr McPhee on behalf of Fletcher Building Limited, Waipapa Pine Limited and the Adrian Broughton Trust, suggested that the proposed setbacks were too restrictive and that any such buffer between uses and activities should be accommodated in the adjacent zone (i.e. land which is likely, for the most part, zoned Rural – Production zone). The Council’s right of reply disagreed with this evidence, primarily because the examples provided in the evidence by Mr McPhee were of existing uses and activities (operating under existing resource consents) and because the rule seeks to control new uses and activities which met the Significant Hazardous Facility definition.

4.4.2 Hearings Panel Evaluation

We confirm our agreement with the right of reply position on this issue, which states at paragraph 10 that:

...Mr McPhee’s evidence is based on his client’s activities and where those activities are currently taking place, this is confirmed in the sentence “many of the activities within the proposed Heavy Industrial zone at Waipapa have been operating for some time and do so under existing consents.” However, I note that these activities are not captured by the

rule as they are ‘existing’ and not ‘new’, and any new sensitive activities are recommended to be set back at least 100m from the zone boundary by the Hearing 9 reporting officer.

We note that Mr McPhee did not provide any evidence as to how the suggested changes sought by the submitters would address significant adverse effects, nor how individual activities would be monitored and the risks managed effectively.

4.4.3 Hearings Panel Recommendations

As we agree with the reply recommendation on this issue, no further amendment is required to the proposed wording of rule HS-R2. It follows therefore that we recommend the submission from Fletcher Building Ltd (S342.020) is rejected.

4.5 Key Issue 2: Significant Hazardous Facilities (SHF) within a significant natural area (rule HS-R6), or within a flood hazard zone (rule HS-R7), or within a scheduled heritage resource (rule HS-R9)

4.5.1 Matters Raised in Submissions

Paragraphs 14-18 of the right of reply summarise the relevant submission points made on rules HS-R6, HS-R7 and HS-R9 which remained in contention at the hearing. This included the submission from Federated Farmers (S421.086) that the activity status for not meeting the rules should be discretionary, rather than non-complying activities.

We again acknowledge the attendance of Jo-Anne Cook-Munro at the hearing to support the Federated Farmers submission points, which mainly centred around ensuring that these rules do not capture those farms that carry out activities such as producing milk (dairy farms) and storing this short term on the farm for later collection, or the storage of hazardous substances (including agrichemicals, fertilisers and the like). It was stressed that these types of normal rural activities should not be captured by the Significant Hazardous Facility definition.

Discussion at the hearing explored the definition of Significant Hazardous Facility, as per the version attached to the Hearing Report (at Appendix 1.2) and the reference to “milk processing plants”.

The Council’s right of reply set out that dairy farming activities would not be subject to this definition and that a specific exception for dairy farms in the definition was not necessary or appropriate – while acknowledging that some dairy farms could well include an activity or development that did meet the Significant Hazardous Facility definition, as an exception but not the norm.

4.5.2 Hearings Panel Evaluation

We agree with the Council’s right of reply position on this issue and make no further evaluation.

4.5.3 Hearings Panel Recommendations

As we agree with the reply recommendation on this issue, no further amendments are required to the proposed wording of rules HS-R6, HS-R7 and HS-R9. These rules are set out

in **Appendix 2.3**. Accordingly, we recommend that the submission from Federated Farmers (S421.086) is accepted in part.

4.6 Key Issue 3 - Response to Questions at the Hearing raised by the Panel

As set out at paragraph 22 of the Council's right of reply, the Panel raised a question in respect of the terms 'minimised' in HS-01 and 'managed' in HS-02, as well as 'avoid where practicable' in HS-P2, questioning how these terms would become actions that could be measurable outcomes to achieve the objectives. We were advised that no submissions had been received on this issue, so there is no scope to make changes.

Despite this scope issue, we sought further exploration on the use of these terms and whether alternative wording would be more appropriate. The discussion at paragraph 24 of the Council's right of reply sets out this consideration and ultimately recommended keeping both phrases. We agree with the clarification provided and recommendation to retain them.

The Panel also questioned use of the word "address" in policy HS-P3 with the discussion at paragraph 26 of the right of reply considering this matter. While we appreciate this response, which aims to achieve consistency across the PDP for 'consideration' type policies, we recommend that the word "address" is technically incorrect when referring to environmental effects. We prefer to replace the word "address" with the words "avoid, remedy or mitigate", as per the wording set out below for policy HS-P3:

HS-P3

~~Manage new or expanded significant hazardous facilities and sensitive activities to address the effects of the activity requiring resource consent, including (but not limited to) consideration of the following matters where relevant to the application: Consider the following matters for expanded significant hazardous facilities and sensitive activities to address~~ avoid, remedy or mitigate the effects of the activity requiring resource consent, including (but not limited to) the following matters: (...)

The Panel have also noted that there is a difference between the recommended wording for the title of rule HS-R1 between the hearing report (Appendix 1.1) and the right of reply (Appendix 1) where the correct wording should be as per the hearing report:

~~HS-R1 Maintenance, and repair~~ and alteration of a significant hazardous facility

4.6.1 Hearings Panel Recommendations

For the reasons set out in the discussion above, the Hearings Panel recommend that policy HS-P3 and HS-R1 be amended as per the amendments set out above at paragraph 4.6. These amendments are set out in **Appendix 2.3**.

5. Conclusion

For the reasons set out in this recommendation report, we recommend the adoption of a set of changes to the PDP provisions relating to Natural Hazards and Hazardous substances.

Our recommended amendments are shown in **Appendix 2.1 – Appendix 2.3** to this recommendation report.

Our recommendations also include recommendations for consequential amendments to or from other recommendation reports.

We have had regard to the submissions and further submissions received, the evidence tabled and presented to us and to the Council’s hearing reports (including the rights of reply). We have also incorporated our own s32AA evaluation, when needed, into the body of our recommendation report as part of our reasons for any recommended amendments.

Accordingly, we recommend that the submissions and further submissions should be accepted, accepted in part or rejected, as set out in this recommendation report and in the table of Recommended Decisions on Submissions in **Appendices 3.1 – 3.2**.

Overall, we consider that our recommendations will ensure the PDP achieves the statutory requirements, national and regional policy directions, and provides for the PDP to be easier to implement and understand for the users of it.