

# **Section 32 Report – Part 2**

## **Hazardous Substances**

prepared for the

### **Proposed Waikato District Plan**

July 2018



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# I OVERVIEW AND PURPOSE

The purpose of this report is to discuss the options for the review of the provisions in the Operative Waikato District Plan in relation to the management of hazardous substances in order to provide best practice and to achieve consistency with the current applicable legislation frameworks achieving the best environmental outcomes for the Waikato District.

Hazardous substances are controlled by the Hazardous Substances and New Organisms Act (HSNO) 1996. Recent Resource Management Act (the Act) 1991 amendments has removed Council's functions pursuant to section 31 in regards to hazardous substances. However Council can still require provisions in accordance with section 5 to manage resources in a way, and at a rate, which enables people and communities to provide for their health and safety, and with section 31(1)(a) to achieve integrated management of effects. This would mean that any gaps between legislative frameworks are covered to ensure any adverse environmental effects are controlled by the District Plan.

In general, hazardous facilities which comply with the HSNO requirements for the management of hazardous substances should not have significant actual adverse effects on the environment. The Act need only deal with particular risks associated with a specific site that is not already managed by the generic controls under HSNO.

Resource Management Plans should not be in conflict with HSNO requirements and should not repeat them. However a District Plan may add a higher degree of environmental protection where necessary in the context of the Waikato District.

The rationale for a higher level of protection through the additional land use controls under the Act may be appropriate for substances not controlled by HSNO or for issues which are not within the scope of HSNO, such as reverse sensitivity. They may also be appropriate where a site has unusual characteristics which are not contemplated or addressed by the relevant HSNO controls. These specific site issues might include proximity to water courses or potable water supplies, hazard areas, groundwater and effects on adjoining sites where sensitive land use activities exist and are comprehensively controlled by the minimum requirements for hazardous substances under the HSNO legislation. District Plan provisions should not duplicate requirements imposed by the HSNO Act or other statutes.

The planning framework for managing hazardous facilities under the Act focuses solely on land use planning. Therefore it is considered complementary to the controls under HSNO legislation. Additional situations where supplementary controls may be necessary include managing:

- the effects of hazardous facilities on sensitive land uses;
- reverse sensitivity effects;
- potential effects on areas of sensitivity, including substances that are not controlled by HSNO;
- risk to public safety from natural hazards;
- cumulative effects from multiple facilities

- the relevant HSNO requirements that do not anticipate or adequately manage these issues.

Both the Operative Waikato District Plan Waikato Section and Franklin Sections currently provide a suite of objectives, policies and rules in relation to hazardous substances.

## **1.1 Topic Description**

Hazardous substances include substances defined in the Hazardous Substances and New Organisms Act 1996 and substances with radioactive properties or high biological oxygen demand.

Substances fall within the definition if they have certain hazardous properties such as explosiveness, flammability or corrosiveness among other factors.

RMA enables plans to include additional land use controls for the prevention or mitigation of any adverse effects of the storage, use, disposal and transport of hazardous substances.

Landuse controls may relate to matters such as the location of hazardous facilities, their potential impacts on other land uses and the natural environment, and the transport of hazardous substances that are undertaken as part of the hazardous facility's operation.

The sites where activities take place are defined as hazardous facilities.

The rules are designed to apply in addition to the requirements of the Hazardous Substances and New Organisms Act 1996 legislation and are considered necessary in accordance with section 142 of the Hazardous Substances and New Organisms Act 1996. Standards, protocols and procedures established under other legislation assist in the management of hazardous substances and these standards are recognised in the design of the rules.

The rules address primarily the potential adverse effects, specifically risks, of the use of land for the use, storage, or disposal of hazardous substances in the Waikato District. Risks are influenced by the nature of the hazardous substance, its quantity, what parts of the environment may be affected by an adverse event, the likelihood of an event, and the degree of effect.

## **1.2 Significance of this Topic**

The management of hazardous substances can be considered significant, depending on the risk associated with the activity and the hazardous substances used or stored at a hazardous facility and given the proximity of the activity to sensitive land uses.

The key issue associated with this topic is to ensure protection of sensitive land uses from hazardous facilities. While this issue primarily relates to the protection of the health and safety of people it includes the natural and physical environment.

### **1.3 Resource Management Issue to be Addressed**

The Hazardous Substances New Organisms Act 1996 is the primary legislation for managing hazardous substances. Recent RMA Amendments has removed Council's functions pursuant to section 31 in regards to hazardous substances. However Council can still require provisions in accordance with section 5 to manage resources in a way, and at a rate, which enables people and communities to provide for their health and safety, and with section 31(1)(a) to achieve integrated management of effects. This would mean that any gaps are covered to ensure any adverse environmental effects are controlled by the District Plan.

The key resource management issue is that hazardous substances have the potential to impact on sensitive land use activities and need to be managed at the hazardous facility to which the hazardous substance is being used or stored. Transportation of hazardous substances also needs to be considered. This issue primarily relates to people, property and the natural environment.

The HSNO controls hazardous substances with regards to the minimum requirements applicable to any site. The District Plan can manage adverse effects of hazardous substances on sensitive land use activities by applying location and site-specific requirements in the District Plan.

Hazardous substances management may present risk through a combined cumulative risk, which is deemed to be significant and requires risk assessment. For instance, a number of minor hazardous substance spills from different individual sites may be deemed tolerable, but may have significant consequences to the receiving environment.

Reverse sensitivity effects between hazardous facilities and sensitive land use activities is an issue particularly where a facility involves hazardous substances with the potential to damage human health and property, rather than the natural environment.

The interaction between natural hazards (such as land instability, seismic, flooding etc) and hazardous facilities is to be addressed in Stage 2 of the District Plan review.

## **1.4 Current Objectives, Policies, Rules and Methods**

### **1.4.1 Franklin Section of the Waikato District Plan:**

### **Issue**

There is one issue identified, addressing both the risks from hazardous substances and contaminated sites together. While the generic nature of the statement provides little room for disagreement, it is considered to be too general and unspecific to be of much use in the formulation of meaningful objectives and policies for future provisions.

### **Objectives**

Two objectives are stated in the operative provisions under section 15.3.1, one of which refers to contaminated sites and the other to 'hazardous activities'. That term is not defined but specific reference is made to the release of radioactive substances.

### **Policies**

There are three policies specified, one of which relates to contaminated sites. The list of the others deals with the accidental release of radioactive substances and the second refers to other policies elsewhere in the Plan (dealing with air discharges) from industrial activities and water resources/stormwater quality respectively). There is no specific policy addressing the risks from the use of land by activities involving hazardous substances.

### **Methods**

Five District Plan methods are listed in the Plan, three of which address the management of contaminated sites. The other provisions reflect the policies in prohibiting some activities involving radioactive substances, or by referring to other methods on air discharges and water quality addressed elsewhere in the Plan. There are no statutory or non-statutory methods specified addressing the broader management of hazardous substances.

### **Other**

There is another section titled 15.3.2 Objective – Contaminated Sites' which basically repeats statements on all issues, objectives, policies and methods with regard to the management of contaminated sites. It provides a bit more detail with regard to subdivisions but the purpose of the repetition of all statements is unclear. This could simply be a Plan drafting error.

In addition Rule 29.6 elsewhere in a Plan is concerned with activities involving selected hazardous substances in the industrial/business zones. The provisions permit activities if the quantities of the hazardous substances used or stored are less than the thresholds listed. The list includes some 90 individual chemicals and several generic categories of substances with selected flammable or explosive properties. I note that, for example, LPG is not included in the list. This would mean that any quantity of LPG in an industrial zone would require consent.

Apart from the general shortcomings of substance lists, there is no information about the issues associated with the selected substances. There is no clear link between sections 15.3 and 29.6 of the Plan. There is no activity status specified if the thresholds are exceeded. There are also no assessment matters or information requirements specified for activities triggering consent.

The provisions also do not appear to apply to activities involving hazardous substances in other zones. This seems to reflect a misconception that the use and

storage of hazardous substances is limited to industrial land uses. The purpose of emphasising the management of radioactive substances is unclear. Overall, it is considered that the provisions are of limited use and out-of-date.

#### **1.4.2 Waikato Section of the Waikato District Plan:**

The Waikato section provides some background to the issues and explains briefly the statutory context for the management of hazardous substances. It is noted that the specific function of local authorities for managing hazardous substances under the RMA has been removed. However the matter is still subject to the general provisions for the management of land use under the RMA and can be controlled by local authorities if considered necessary.

##### **Issue**

The issue identified is uncontentious in principle but is phrased in very general terms. If retained an issues section could be made more specific, potentially referring to more than one clearly identified issue.

##### **Objective**

One objective is stated, which like the issue is generally agreeable but unspecific. The benefits of hazardous facilities, while acknowledged elsewhere in the Plan provisions, is not reflected in the objective. While risk is the primary adverse effect to be managed, this is also not reflected in the current wording. Therefore, while the principle expressed in the current objective is generally appropriate, it could be phrased clearer and more precise.

##### **Policies**

There are two policies specified, one of which refers exclusively to the transport of hazardous substances. The other is more comprehensive but strays into methods (HS management plan – Policy 14.2.2 -8) or is somewhat repetitive (Policies 14.2.2 – 3 and 6). The policy may also need to be reviewed in terms of the directive given ('should avoid'). It is recommended that it be amended to be more precise and consistent. Policies on interaction with natural hazards and on reverse sensitivity with regard to risk should be considered.

##### **Reasons and Explanations**

This is currently a very useful part of the plan for both Council staff and decision makers, as well as hazardous facility operators/applicants. While some Councils have decided to provide the bare minimum in their Plan text and may include reasons in the s.32 analysis (or not provide any), the inclusion of reasons and explanations in the plan text is helpful. The actual wording need to be updated and parts could be included in the Introduction, considering the length and detail of the explanations.

##### **Methods of Implementation**

Three generic methods are listed in the Plan with varying details, one of which refers specifically to Council owned sites and operations. It is unclear whether this matter deserves specific attention or whether it reflects Council's approach across the Plan on other matters as well (amenity issues such as noise, lighting etc or soil disturbance, contamination, transport et al.). The other methods list either the

regulatory or non-statutory methods some of which are useful in principle. However Council would need to reflect whether particularly the non-statutory methods have actually been developed in any detail or actively implemented during the life of the current plan. If that has not the case, it needs to be evaluated consequently to what degree listing such methods in the Plan is of practical value.

The reasons given for the methods are somewhat generic, repetitive (or have been subject to an editing error) and of limited use. They should be either deleted or significantly re-written.

### **Anticipated Environmental Results**

Are useful in principle but it is considered that they would require actual monitoring data to determine to what degree any, or all, have been achieved. In the absence of that the reasons and explanations for the approach taken and methods selected may be more useful as guidance on what Council's intention is with regard to the management of hazardous substances.

This section does not contain any specific rules.

### **Appendix H**

Appendix H contains:

The criteria for permitted activities;  
 The rule with regard to discretionary activities and applicable information requirements;  
 The AST (Table HT1), and  
 A table (HT 2) with conditions for permitted activities

Specific rules for the management of hazardous substances/facilities are repeated through the zone-specific sections of the DP.

The information in the appendix is not particularly well written and is difficult to follow. Some errors appear to have avoided detection during Plan drafting. The numbering of the criteria for permitted activities, for example is repetitive and inconsistent. The standards in Table HT 2 are described in Appendix H as 'conditions' but in Chapter 14 itself as 'rules based on performance standards' (s.14.4.1). The information requirements are based on guidance and established practice, however there are no assessment matters specified to determine how the information supporting a consent application would be evaluated.

With regard to the definition of terms relevant to the management of hazardous substances it is noted that the term 'hazardous substance' is currently defined in the Appendix P of the WDP (Defined Terms). The term 'hazardous facility' is not used specifically and hence not defined, however the terms 'facility', 'hazardous operation' and 'hazardous activity' are all used interchangeably without being defined. Other terms such as 'use' or 'storage' of a hazardous substance are also not defined, nor are they defined in the RMA (or the HSNO Act, for that matter). Some other terms specific to this issue, particularly in relation to 'risk' (in the context of hazardous facilities – note that natural hazards may require somewhat different terminology) are also not defined. It is recommended to evaluate the relevance of all specific

terms used and define them correctly, unambiguously and clearly (including the terms ‘hazardous substance’ and ‘hazardous facility’).

## 1.5 Information and Analysis

A technical report has been prepared titled “*Waikato District Council – Hazardous Substances Management: Hazardous Substances Provisions of the Waikato District Plan – Explanation of Issues and Options*” prepared by Resources – Hazardous Substance and Resource Management Consulting (Norbert Schaffoener).

This report provides a detailed analysis of the current District Plan’s (Waikato Section and Franklin Section) provisions and approach, and a recommended approach for the use, storage, transport and disposal of hazardous substances. The report analyses details ranging from potential inconsistencies, overlaps or gaps in the wording of objectives and policies; the scope of, and the exemptions from, controls; the method to determine the activity status of hazardous facilities to the definition of relevant terms. It refers also to the relevant national and regional planning instruments. Both the Waikato and Franklin sections of the Plan are analysed.

In the process of preparing the above report, an internal workshop was held with Waikato District Council staff on 3<sup>rd</sup> March 2017 seeking feedback on the issues associated with hazardous substances.

**Table 1 List of relevant background assessments and reports**

Title	Author	Description of Report
“ <i>Waikato District Council – Hazardous Substances Management: Hazardous Substances provision of the Waikato District Plan – Explanation of Issues and Options</i> ”	Resources – Hazardous Substance and Resource Management Consulting (Norbert Schaffoener) – dated March 2017	Issues and Options Report assessing Council’s current requirements and assessing what other neighbouring Council’s do.

## 1.6 Consultation Undertaken

No specific consultation has been undertaken on the hazardous substances topic. However during the initial “issues” roadshow in June 2015, hazardous substances were a topic raised for feedback and consultation.

When the Draft Proposed District Plan was released in November 2017 further consultation was undertaken with the public and key stakeholders.

**Table 2: Summary of Feedback received from key stakeholders**

Company	Summary of Feedback
The Oil Companies	<ul style="list-style-type: none"> <li>Request similar action to previous feedback on this topic. Duplication is unnecessary and inefficient.</li> </ul>

	<ul style="list-style-type: none"> <li>• Consider it very unlikely that there will be grounds to justify the blanket hazardous substance provisions proposed by Council.</li> <li>• Referred to major Hazardous Facilities (MHF) in our District (On Gas Limited at Ohiniwai and the Department of Corrections at Hampton Downs. These facilities may benefit from land use planning controls such as risk overlays to manage risk to acceptable levels. Overlays of this nature have recently been introduced around bulk fuel storage facilities in Auckland and Christchurch. Oil Companies provided similar views to Whangarei District Council in early 2017 in response to draft proposed Plan Change 91.</li> <li>• Definitions for Hazardous substance, Hazardous facility, Storage or hazardous substances, Use of hazardous substances.</li> <li>• Plan does not appear to distinguish between defined terms like the use of hazardous substances and the storage of hazardous substances. The intent of these definitions is therefore unclear. Clarification should be provided if these terms are to be retained: Hazard, Risk, Cumulative Risk, Residual Risk.</li> <li>• Reverse sensitivity, Sensitive activity, sensitive land use (inconsistent with the definition in the WRPS.)</li> </ul>
Balance Agri-Nutrients	<ul style="list-style-type: none"> <li>• Not sure why plan delves into hazardous substances considering the changes to s31 of the RMA.</li> <li>• Fertiliser is a hazardous substance, but it is a hazardous substance specifically designed to be discharge onto land for the benefit of plant growth. Majority of farmers use fertiliser or store it while waiting for application.</li> <li>• Farms can have up to several 100 tonnes of bulk fertiliser on site. Prohibited rule, industrial activity definition. Plan would classify all farms as hazardous facilities because they store and use hazardous material (fertiliser).</li> <li>• Include explicit right to store and use hazardous substances.</li> <li>• Exclude fertiliser storage or utilisation Definition Industrial Activity - exclude fertiliser storage hazardous substances. Standards for permitted activities make explicit allowance for fertiliser.</li> </ul>
Horticulture New Zealand	<ul style="list-style-type: none"> <li>• Opposition to provisions. Similar to other feedback above. Do not support the use of HFSP and AST or quantity limits as they are not an appropriate framework for managing hazardous substances, and are overly complex and onerous.</li> </ul>
LPG Association	<ul style="list-style-type: none"> <li>• Provisions for hazardous substances and Appendices need to better reflect RMA changes and Decision issued by Christchurch District Plan in 2016.</li> </ul>

Pork New Zealand	<ul style="list-style-type: none"> <li>Until the table is provided with the types of hazardous substances and the quantities that fit under the permitted activity rule we cannot comment.</li> </ul>
Genesis Energy	<ul style="list-style-type: none"> <li>Compliance with HSNO and H&amp;S at work regulation and the District Plan is considered unnecessary duplication, complex and costly.</li> <li>Genesis is unsure what justification there is for the Waikato District Council to continue to manage hazardous substances from a land use and environmental effects perspective given the controls in other regulations. Recommend that all provisions and appendices relating to hazardous substances are removed from the DP.</li> </ul>
Livestock Improvement Corporation (LIC)	<ul style="list-style-type: none"> <li>In the Operative Waikato District Plan, Appendix H (Hazardous Substances) includes "Agricultural Research Centre Campus" and "Waikato Innovation Park" with the Industrial Zone in Table HTI - Permitted Activities by Zone. However this has not been included in the corresponding column in Table X.I. Activity Status Table - Permitted Activity Thresholds in the Draft Waikato District Plan</li> </ul>

## 1.7 Iwi Authority Consultation and Advice

### 1.7.1 Consultation

Clause 3 of Schedule 1 of the RMA sets out the requirements for local authorities to consult with tangata whenua through and iwi authorities. Clause 3 also requires Local Authorities to consult with any person, group or ministry that may be affected by changes made to the District Plan.

Council used the following methods to create an Iwi Reference Group.

- Joint Management Agreement
- Tai Tumu Tai Pari Tai Ao (Waikato Tainui Environmental Plan)
- Partnerships
- Collaboration

The purpose of the Iwi Reference Group was to provide Council with a single forum to socialise the proposed changes to the Operative District Plan.

The Iwi Reference group was made up of all iwi and hapuu within the district that council currently consults with via the Resource Consent Process.

Engagement and consultation with the Iwi Reference group took place between December 2014 and December 2017. (See Part 1 Section 32 Report – Introduction to the Evaluation Report)

### 1.7.2 Advice

Under Clause 4A of Schedule 1 of the RMA sets out the requirements for local authorities to consult with iwi authorities before notifying a proposed plan. Clause 4A(1)(b) requires Council to have particular regard to any advice received on a draft proposed policy statement or plan from those iwi authorities.

Council engaged with the relevant Iwi and Hapuu and through Te Kahui Mangai website:

Iwi authorities within Waikato District:

- Waikato Tainui
- Ngaati Tamaoho

Iwi for the purpose of RMA list on Te Kahui Mangai

- Tainui o Tainui

Iwi that have relationship from other districts

- Hauraki
- Ngaati Maniapoto
- Ngaati Paoa - Hauraki

The above Iwi groups were consulted with and a summary of their comments issues and Council's consideration are listed in Part 1 Section 32 Report – Introduction to the Evaluation Report.

## 1.8 Decision-making

The topic of hazardous substances was discussed with the Councillors through workshops, and as such there is no formal resolution or record of decision making. The following table outlines the dates and content of the workshops with Councillors:

Date	Content
14 December 2015	<ul style="list-style-type: none"> <li>• Definition of hazardous substances and the Hazardous Substances and New Organisms Act 1996</li> <li>• Management through legislation</li> <li>• What is a hazardous substance and where are they used</li> <li>• Risks to the environment and human health</li> <li>• Role of the district plan in managing hazardous substances</li> <li>• National Environmental</li> <li>• Relationship with National Environmental Standards for Assessing and Managing Contaminants in Soil to Protect Human Health</li> <li>• Relevant provisions of the Regional Policy Statement</li> <li>• Relevant provisions of the iwi management plans</li> <li>• Both the Waikato Regional Council and territorial authorities have responsibilities for the management of hazardous substances.</li> <li>• Existing Operative District Plan provisions</li> <li>• Gaps and issues to guide the development of provisions</li> </ul>
15 March 2016	The development of Issue Statements: The use, storage,

	transportation and disposal of hazardous substances can threaten the environment and people's health, safety and property.
28 June 2016	<ul style="list-style-type: none"> <li>• Desired State: Manage the use, storage, transportation and disposal of hazardous substances to avoid adverse effects on people's health, safety, property and the environment'</li> <li>• Issue- Management of Hazardous Substances: The use, handling, storage, transportation and disposal of hazardous substances have the potential to have adverse effects on people's health, safety, property and the environment</li> <li>• Existing Objective/s</li> <li>• Summary of matters addressed under existing policies</li> <li>• Relevant Part 2 RMA Matters</li> <li>• Relevant WRPS Matters</li> <li>• Section 32(1)(a) Evaluation Report</li> <li>• New Objective required</li> </ul>
12 September 2016	<p>Draft policies</p> <p>Objective 1: People's health, safety, property and the environment are protected from the adverse effects of hazardous substances.</p> <ul style="list-style-type: none"> <li>• Need for this matter to be addressed in the district plan</li> <li>• Relevance of the term "sensitive land uses"</li> <li>• Use of categories</li> <li>• Asked about relevance to mushrooms, chickens, Tuakau by-products?</li> <li>• Management under the NES and HSNO. Some of this also included under Reverse Sensitivity.</li> <li>• Role of the consenting process</li> </ul>
16 May 2017	<p>Legislative Context for managing Hazardous Substances under the RMA</p> <p>Issue: Hazardous substances can have adverse effects on the natural environment, people and property, particularly beyond the boundaries of the hazardous facility at which they are managed.</p> <ul style="list-style-type: none"> <li>• Draft objectives</li> <li>• Draft policies</li> <li>• Draft rules</li> </ul>

## 1.9 Reference to Other Relevant Evaluations

This s32 topic report should be read in conjunction with the Section 32 evaluation for contaminated land.

## 2 ISSUES, OBJECTIVES, POLICIES AND RULES

### 2.1 Higher Level Planning Documents and Legislation

### **2.1.1 Waikato Regional Policy Statement**

Waikato Regional Policy Statement (WRPS) became operative on 20 May 2016. Section 4.2.9 of the WRPS sets out the responsibilities for controlling the use of land to prevent or mitigate the adverse effects of the storage, use, disposal, or transport of hazardous substances. The responsibility for specifying objectives, policies and methods including rules is specified as being the District Councils in the Waikato Region in relation to all land outside of the coastal marine area and beds of rivers, lakes and other water bodies.

The Waikato Regional Policy Statement directs responsibility for hazardous substances to Territorial Authorities (and this remains valid until the RPS is amended) and the Waikato Regional Plan relate primarily to the discharge of contaminants to water, soil and air.

### **2.1.2 Operative Waikato Regional Plan**

The Operative Waikato Regional Plan (WRP) contains issues, objectives, policies and rules relating to a number of matters within the region. The interface with hazardous substances is primarily in relation to the discharge of contaminants to water and soil and air. The quality of surface waters, including stormwater quality management is also addressed. There are no land use specific requirements for hazardous facilities. The provisions appear somewhat dated and there is reference made to regulations under the HSNO Act being developed (which began more than 20 years ago and was largely completed a decade ago) or licensing under the HSNO legislation (which ceased after the transition from the dangerous goods legislation). It is understood that the WRP is under review.

### **2.1.3 The Regional Coastal Plan**

The Regional Coastal Plan (RCP) for the coastal environment within the Waikato region became operative on 27 October 2005, apart from a few minor variations. The RCP defines hazardous substances and includes one specific clause on the discharge of hazardous substances into the Coastal Marine Area (CMA). Clause 16.3.12 makes such discharges a discretionary activity provided certain standards and terms are met. The provision is phrased to apply to the deliberate use and discharge into the CMA, such as from antifouling paint, not to accidental spills into the CMA from hazardous facilities.

### **2.1.4 Iwi Environmental Management Plans**

The relevant Iwi Environmental Management Plans for the Waikato District has been identified by Council staff as the Waikato-Tainui Environmental Management Plan and the Draft Maniapoto Environmental Plan. Neither plan contains specific matters relating to land use activities involving the management of hazardous substances. Individual matters addressed relate to pest control and soil/water quality, particularly discharges of contaminants. While that is primarily a Regional Council function it needs to be ensured that provisions for the land use management of hazardous facilities in District Plan is not inconsistent with the relevant objectives of the Iwi Environmental Management Plans.

Those strategic matters and provisions that have been specifically given effect or had regard to in this chapter are summarised in Table 5 below and are set out in full in Appendix 3. These documents broadly identify the resource management issues for the District and provide the higher level policy direction to resolve these issues.

Table 3: Higher order and guiding documents

Document (Statutory obligation in italics)	Relevant provisions the hazardous substances topic is required to take into account/give effect to
Waikato Regional Policy Statement	Section 4.2.9
Waikato Regional Policy Statement	<p>“Policy 6.1.8 – Information to support new urban development and Subdivision</p> <p>District plan zoning for new urban development (and redevelopment where applicable), and subdivision and consent decisions for urban development, shall be supported by information which identifies, as appropriate to the scale and potential effects of development, the following:</p> <p>f) potential issues arising from the storage, use, disposal and transport of hazardous substances in the area and any contaminated sites and describes how related risks will be managed.”</p>
Waikato Regional Policy Statement	<p>“Policy 13.2.6 – Control of development within a floodplain or coastal hazard area</p> <p>Regional and district plans shall ensure that:</p> <p>a) Subdivision, use and development can only occur in a floodplain with an annual exceedance probability of 1% (where the floodplain does not match the definition of being a High Risk Flood Zone) or in an identified potential coastal hazard area (not being a High Risk Coastal Hazard) area where:</p> <p>vi) any hazardous substance stored as part of the development, or during the construction, or found on or near to the site, will not create a hazard;”</p>

## 2.2 Issues

The evaluation of objectives and provisions in the following sections relate to the resource management issue stated below:

<b>Issue statement</b>	<p><b>Hazardous Substances</b></p> <p>Hazardous substances can have adverse effects on the natural environment, people and property, particularly beyond the boundaries of the hazardous facility at which they are managed.</p>
<p>The HSNO Act 1996 is the primary legislation for managing hazardous substances. Recent RMA Amendments has removed Council's functions pursuant to S31 in regards to hazardous substances. However Council can still require provisions in accordance with s5 to manage resources in a way, and at a rate, which enables people and communities to provide for their health and safety, and with s31(1)(a) to achieve integrated management of effects. This would mean that any gaps are covered to ensure any adverse environmental effects are controlled by the District Plan.</p> <p>The District Plan ensures that hazardous substance use and storage is located, designed and managed to avoid and mitigate adverse effects on the environment in the Waikato District. The District plan provisions support the Hazardous Substances and New Organisms Act 1996 (HSNO) and its regulations which address matters such as labelling, packaging and container integrity, basic emergency management and competency of staff handling hazardous substances. The rules of the District Plan address effects considered not to be covered fully by the Hazardous Substances and New Organisms legislation, especially risks that are specific to the location of land uses, due to land use zoning or proximity to water bodies or coastal water.</p> <p>Conditions (including quantities) on hazardous substance relate to site-specific issues where generic HSNO requirements may not be sufficient to minimise risks to levels acceptable to the community. More significant new hazardous facilities require an assessment of risks in relation to their proposed location, a process only provided for under the RMA. On this basis, site and activity-specific controls on risk mitigation, risk communication, and emergency management may be required in the context of the surrounding environment and land.</p>	

### 3 SCALE AND SIGNIFICANCE EVALUATION

The level of detail undertaken for the evaluation of the proposed District Plan provisions has been determined by an assessment of the scale and significance of the implementation of the proposed District Plan provisions. The scale and significance assessment considered the environmental, economic, social and cultural effects of the provisions. In making this assessment regard has been had to the following, namely whether the provisions:

- (a) Are of regional or district wide significance;
- (b) Have effects on resources that are considered to be a matter of national importance in terms of Section 6 of the Act;
- (c) Adversely affect people's health and safety;
- (d) Result in a significant change to the character and amenity of local communities;
- (e) Adversely affect those with particular interests including Maori;
- (f) Limit options for future generations to remedy effects;
- (g) Whether the effects have been considered implicitly or explicitly by higher order documents; and
- (h) Include regulations or other interventions that will impose significant costs on individuals or communities.

The evaluation has focused on those provisions that will result in a substantial change to the hazardous substances topic and are of greater importance to ensure the objective of the Hazardous Substances Chapter (and other objectives where relevant) are achieved. The majority of changes proposed to the current provisions involve hazardous substances.

Policies and rules have been evaluated as a package, as together they address a particular issue and seek to meet a specific objective.

The following table contains a summary of the policies and rules considered to be of a scale and significance to justify a more comprehensive evaluation of options.

**Table 4: Scale and significance assessment**

Issue	Provisions evaluated	Scale and Significance Reasoning
<p><b>Issue 1</b> Hazardous substances can have adverse effects on the natural environment, people and property, particularly beyond the boundaries of the hazardous facility at which they are managed.</p>	<p>10.1.1 Objective – Effects of hazardous substances</p> <p>10.1.2 Policy– Location of new hazardous facilities</p> <p>10.1.3 Policy – Residual risks of hazardous substances</p> <p>10.1.4 Policy – Reverse sensitivity effects</p> <p>Within each zone: Permitted activities Controlled activities Discretionary activities</p> <p>Appendix 5</p>	<p>The issue covered in this topic chapter is generally significant in terms of scale for the following reasons:</p> <p>(a) It is of district wide significance as use of hazardous substances can occur anywhere in the District;</p> <p>(b) Have effects on resources that are considered to be a matter of national importance in terms of Section 6 of the Act. Hazardous substances can have effects on biodiversity, the relationship of tangata whenua with their ancestral lands, water, sites, waahi tapu, and other taonga;</p> <p>(c) Adversely affect people's health and safety;</p> <p>(f) Limit options for future generations to remedy effects;</p> <p>(g) Whether the effects have been considered implicitly or explicitly by higher order documents.</p>

## 4 EVALUATION OF OBJECTIVE

Below is a summary of the objective that has been identified as the most appropriate to address this resource management issue and achieve the purpose of the Resource Management Act 1991.

The following objective is considered to be the most appropriate way to achieve the purpose of the Act.

**Table 5: Summary of objective**

Objective	Summary of evaluation
<p><b>10.1.1 Objective – Effects of hazardous substances</b></p> <p>(1) Residual risk associated with the storage, use, or disposal of hazardous substances is managed to ensure that the effects on people, property and the environment are acceptable, while recognising the benefits of facilities using hazardous substances.</p>	<p>The objective recognises the risk to people and the environment that can arise from the storage, use, and disposal of hazardous substances. It meets the specific legislative requirements which, among other matters, are to control any actual or potential effects of the use, development, or protection of land, including for the purpose of the prevention or mitigation of any adverse effects of the storage, use, and disposal of hazardous substances. It meets the requirements of sections 5(2)(a)-(c) and 31(1)(b)(ii) of the Act and key policies of the Waikato Regional Policy Statement.</p>

## 5 EVALUATION OF PROPOSED POLICIES, RULES AND METHODS

Section 32 (1)(b) requires an evaluation of whether the provisions are the most appropriate way to achieve the objectives by identifying other reasonably practicable options, assessing the efficiency and effectiveness of the provisions in achieving the objectives, and summarising the reasons for deciding on the provisions. The assessment must identify and assess the benefits and costs of environmental, economic, social and cultural effects that are anticipated from the implementation of the provisions, including opportunities for economic growth and employment.

### 5.1 Identification of Reasonably Practicable Options – for Achieving Objective

The following assessment consists of an examination of all reasonably practicable options for achieving *Objective 10.1.1 – Effects of hazardous substances*. This high-level screening process considers the effectiveness of each option. Only those options considered to be reasonably practicable will be evaluated in this section.

#### Table 6: Reasonably Practicable Options for Achieving Objective

Objective(s)	<b>10.1.1 Objective – Effects of hazardous substances</b> (a) Risk associated with the storage, use, or disposal of hazardous substances is managed to ensure that the effects on people, property and the environment are acceptable.				
Options	Description (brief)	Relevance	Feasibility	Acceptability	Recommendation
<b>Option 1</b>  Do nothing – (remove all policies and associated methods)	The “do nothing” option means that there would be no District Plan provisions to manage the effects of hazardous substances in the District Plan, which is a function of the Resource Management Act 1991 (RMA). Complete onus would be on the Hazardous Substances and New Organisms (HSNO) Act 1996 and the health and safety at work legislation to manage effects of activities within the scope of those statutes.	Doing nothing is not an effective way to meet the above objectives and reliance would be solely on agencies outside of Council to manage the effects of hazardous substances i.e. the Environmental Protection Authority (EPA), Worksafe NZ etc.  Exposes Council to potential liability risks in cases of accidents where incompatible land uses are located close to each other (i.e. adverse health effects on public, damage to buildings and infrastructure).	The HSNO Act 1996 is the primary legislation for managing hazardous substances. Recent RMA amendments has removed Council’s functions pursuant to s31 in regards to hazardous substances. However Council can still require provisions in accordance with s5 to manage resources in a way, and at a rate, which enables people and communities to provide for their health and safety, and with s31(1)(a) to achieve integrated	The “do nothing” option is unlikely to be acceptable to our communities in regards to managing the effects of hazardous substances, particularly on sensitive land use activities. It transfers costs and risks from the source (hazardous facility) to other land users, the community at large and the Council.  The “do nothing option” would mean that Council would not get involved in any matters relating to hazardous substances, even where they are location-specific, and	<b>Discard</b>  This option would not support the above objective, protect our community to a level considered necessary or meet the requirements of the RMA in order to manage residual risk to people, property and the environment.

Objective(s)	<b>10.1.1 Objective – Effects of hazardous substances</b> (a) Risk associated with the storage, use, or disposal of hazardous substances is managed to ensure that the effects on people, property and the environment are acceptable.				
Options	Description (brief)	Relevance	Feasibility	Acceptability	Recommendation
			<p>management of effects. This would mean that any gaps are covered to ensure any adverse environmental effects are controlled by the District Plan. However the “do nothing” option would expose Council to potential liability risks where activities are incompatible with landuses or are located too close to each other (i.e. damage from spills, explosions etc).</p> <p>The Waikato Regional Policy Statement directs responsibility for</p>	<p>all matters would be controlled by agencies outside of Council (i.e. EPa).</p> <p>Given the recent changes in legislation, Council have the option to do nothing. However knowing that there are potential risks of new facilities locating near sensitive land use activities or strategic infrastructure, the “do nothing” option would not provide Council the opportunity to manage residual risk to people, property and the environment to acceptable levels where it may be appropriate in certain</p>	

Objective(s)	<b>10.1.1 Objective – Effects of hazardous substances</b> (a) Risk associated with the storage, use, or disposal of hazardous substances is managed to ensure that the effects on people, property and the environment are acceptable.				
Options	Description (brief)	Relevance	Feasibility	Acceptability	Recommendation
			hazardous substances to Territorial Authorities (and this remains valid until the RPS is amended) and the Waikato Regional Plan relate primarily to the discharge of contaminants to water, soil and air.	circumstances to manage hazardous facilities.	
<b>Option 2</b> Status quo – (retain existing policies for Waikato and Franklin areas) – Operative	Maintain the existing provisions from both Waikato and Franklin sections and continue to treat the	Retaining status quo will not provide one set of provisions for the District for hazardous substances.	See the above option for the applicable legislative context and Regional Council direction that	Retaining status quo would not provide a single rulebook or a consistent approach across the district in regards to hazardous	<b>Retain for further evaluation</b> This option would not support the above objective as

Objective(s)	<b>10.1.1 Objective – Effects of hazardous substances</b> (a) Risk associated with the storage, use, or disposal of hazardous substances is managed to ensure that the effects on people, property and the environment are acceptable.				
Options	Description (brief)	Relevance	Feasibility	Acceptability	Recommendation
District Plan	district as two areas.  Both plans currently have rules within the respect zones which refer to permitted quantity thresholds listed in the plan. The list includes several generic categories of substances with selected flammable or explosive properties.	Therefore two sets of objectives, policies and rules would apply, which would be inconsistent and ineffective.  The approach, particularly of the Franklin section, also does not represent best and up-to-date practice.	applies to all options.  In this option status quo would not necessarily mean that all gaps are covered by both sections of the plan to ensure any adverse environmental effects are controlled by the District Plan. Some of the provisions may not be “water tight”, therefore exposing Council to risk.  While the status quo option would not expose Council to the same	substances.  Council and the community are motivated to have only one rulebook for the entire Waikato District and to have one set of provisions which apply across the whole district.  This option would not achieve this.	there are significant differences in approach between the two parts of the district plan and the Franklin section in particular is out of date. Retaining two plans would provide inconsistency across the district and confusion for plan users.

Objective(s)	<b>10.1.1 Objective – Effects of hazardous substances</b> (a) Risk associated with the storage, use, or disposal of hazardous substances is managed to ensure that the effects on people, property and the environment are acceptable.				
Options	Description (brief)	Relevance	Feasibility	Acceptability	Recommendation
			potential liability risks as the “do nothing” option, two sets of rules would be more difficult to manage and monitor than a consistent rule set.		
<b>Option 3</b> Develop new provisions	Develop a new set of provisions, using the preferred provisions contained within both the Waikato and Franklin sections for the plan.  The approach would include rules within each zone which would relate to a corresponding appendix which lists particular hazardous substances,	This option effectively “wipes the slate clean” and can consider all potential provisions from existing Franklin and Waikato sections and look at other district plans for examples (for example the Auckland Unitary Plan).	See option 1 for the applicable legislative context and Regional Council direction that applies to all options.  In this option, new provisions would mean that any gaps are covered to ensure any adverse environmental effects are controlled by the	Developing updated provisions for the hazardous substances topic would provide an up to date set of provisions which would also align with other district plan examples within the Region and New Zealand.  The community and key stakeholders may be accepting of this option to overhaul current planning provisions and to take	<b>Retain for further evaluation</b>  Developing a new set of provisions will support the above objectives, as new provisions would ensure that the provisions are up to date and ensure any risk or potential liability to Council are reduced.  This option would use the best provisions from

Objective(s)	<b>10.1.1 Objective – Effects of hazardous substances</b> (a) Risk associated with the storage, use, or disposal of hazardous substances is managed to ensure that the effects on people, property and the environment are acceptable.				
Options	Description (brief)	Relevance	Feasibility	Acceptability	Recommendation
	categorised by the property (i.e. flammable, explosive etc).		District Plan. The option of developing new provisions would not expose Council to potential liability risks as examples from significant neighbouring Council's (i.e. Auckland and Hamilton) can be implemented thereby reducing any risk to Council.	on new thinking from other district plans for example the Auckland Unitary Plan. Given the technical nature of this work, Council would require technical expertise to assist in developing provisions for this option. This option would allow Council to effectively manage the risk to human health and the environment arising from the use, storage and disposal of hazardous substances.	both the Waikato and Franklin sections (more preference given to the Waikato section given the age of the Franklin section), as well as using examples from other Council's (i.e. Auckland Unitary Plan).
<b>Option 4</b> Use non-regulatory measures or	Using non-regulatory measures and incentives would	Using non-regulatory methods to manage	See option 1 for the applicable legislative context and	Using non-regulatory methods is unlikely to be acceptable to the	<b>Discard</b> This option would not support the

Objective(s)	<b>10.1.1 Objective – Effects of hazardous substances</b> (a) Risk associated with the storage, use, or disposal of hazardous substances is managed to ensure that the effects on people, property and the environment are acceptable.				
Options	Description (brief)	Relevance	Feasibility	Acceptability	Recommendation
incentives.	mean that Council has no power on landowners and commercial operators to address site-specific risks. However the Hazardous Substances and New Organisms (HSNO) Act 1996 and the health and safety at work legislation would manage hazardous substances within the scope of those statutes.	hazardous substances is an option. However this option has the potential to generate adverse effects on the environment and would not necessarily be consistent with Council's requirements (via legislation) and desired objectives. This option would not be effective to manage activities where the effects of the activities may have adverse effects on the environment.	Regional Council direction that applies to all options. In this option, using non regulatory measures or incentives could move significant costs (and risks) from operator or developer to Council (including the development of measures) and it would be impossible to implement and monitor activities in a meaningful way.	community, particularly iwi.  Acceptability is challenged by lack of clarity and applicability of non-regulatory methods, difficult in monitoring and lack of enforcement.  For certain activities, non-regulatory methods would not be effective in order to meet the objectives (i.e. land use activities in proximity to sensitive activities.	above objectives or protect our community to a level considered necessary nor meet the requirements of the RMA in order to manage residual risk to people, property and the environment.

## 5.2 Evaluation of Selected Options

This section contains an evaluation of those options identified above for further evaluation. The short list of options has been developed further to include (where relevant) policies, rules and methods. In some instances, provisions have been bundled where they are expected to work together to achieve the objective(s). For efficiency, this second tier evaluation focuses on the approach and the policies and rules which implement that approach as a package, rather than a detailed analysis of every policy and every rule. How this section is approached in terms of level of detail depends to what extent the options are departing from the existing District Plans and the significance of the alternative options. The following table provides a summary of the evaluation results.

## 5.3 Objective: Hazardous Substances

The following objective and policies have been developed to address the management of hazardous substances within the district plan.

### 10.1.1 Objective – Effects of hazardous substances

- (1) Residual risk associated with the storage, use, or disposal of hazardous substances is managed to ensure that the effects on people, property and the environment are acceptable, while recognising the benefits of facilities using hazardous substances.

### 10.1.2 Policy – Policy – Location of new hazardous facilities

- (1) New hazardous facilities minimise the risk to the environment (including people and property) to acceptable levels by:
- (a) Siting new hazardous facilities in appropriate locations that are separated from incompatible activities and environment;
  - (b) Avoid locating near to sensitive land use activities and infrastructure
  - (c) Designing, constructing and operating hazardous facilities in a manner that ensures the adverse effects of the operation or an accidental event involving hazardous substances can be contained within the site; and
  - (d) Disposing hazardous wastes to authorised disposal or treatment facilities that have appropriate management systems in place.

### 10.1.3 Policy – Residual risks of hazardous substances

- (1) Facilities for the use, storage or disposal of hazardous substances shall identify and assess potential adverse effects (including cumulative risks and potential effects of identified natural hazards) to prevent unacceptable levels of risk to human health, safety, property and the natural environment.

### 10.1.4 Policy – Reverse sensitivity effects

- (1) Separate sensitive land use activities from lawfully-established hazardous facilities;
- (2) Separate new hazardous facilities from existing sensitive land use activities; and
- (3) Avoid the storage, processing or disposal of hazardous waste in sensitive environments.

Permitted activity rules have been provided in each zone to accommodate the use, storage and disposal of hazardous substances that reflects the type of activities anticipated in each zone and the amenity values and environmental outcomes sought. The maximum quantity of hazardous substances (threshold) permitted in each zone is set out in Table 5.1 of Appendix 5.

The permitted activity thresholds for the Te Kowhai Airfield and Hampton Downs Motorsport and Recreation zones have been set at a level that recognises the specific activities and the types of hazardous substances (mainly those related to fuel) that are part and parcel of the activity.

The controlled activity status has been assigned to the storage and retail sale of fuel within service stations above a certain level in some zones to recognise that these substances are well managed through standards and industry practice. However, above these thresholds, the opportunity to consider potential adverse effects on the surrounding environment is considered reasonable.

For hazardous substance use, storage and disposal above the permitted activity levels, the activity status defaults to discretionary (full). The suitability of the restricted discretionary activity status was considered. However, as the number of matters that may be needed to be assessed could be broad, the discretionary activity status provides the mechanism for this assessment.

### 5.3.1 Identification of Options

In considering options for managing and enabling hazardous substances a number of factors were taken into account including:

- The Waikato Regional Policy Statement
- Operative Waikato Regional Plan
- The Regional Coastal Plan
  
- Previous decisions on District Plans (i.e. Christchurch Replacement Plan, Auckland Plan)
- Public Feedback which recommended taking an approach similar to the Christchurch Replacement Plan

Options to be considered for hazardous substances include:

#### Retain Status Quo

While retaining status quo is an option for consideration, it would not achieve the best outcome, as there are two existing sections and it would not be practical to retain these as the desired outcome is one set of rules for the Waikato District in its entirety. In addition, the provisions do not reflect the changes in legislation that specifies the role that a district plan can play in the management of hazardous substances.

#### Develop New Provisions

This option is the best option as it would achieve a single set of policies and rules for hazardous substances across the entire District and would reflect up to date rules and best practice, which would work hand in hand with the HSNO legislation and workplace safety.

The report provided by Norbert Schaffoner sets out in detail the options Council has in regards to developing new provisions and details the differences between the Hazardous Facilities Screening Procedure (HFSP) along with the Hazardous Facilities Activity Status Table (AST) and Substance/Activity Lists. Section 5.4 of the report compares these methods and considers the Activity Status Table (AST) to be the best method currently available to determine the activity status of a hazardous facility district-wide.

Mr Schaffoner does consider the provisions are effective to protect the local environment and communities to acceptable levels and minimise compliance cost to hazardous facility operators. Likely numbers of activities which require some scrutiny in terms of adverse environmental effects remain low overall as the thresholds which would be required are virtually unchanged from the current provisions of the WDP – Waikato Section.

The objective recognises the risk to people and the environment which can arise from the storage, use, disposal and transport of hazardous substances.

It is considered that the proposed objective meets relevant legislation and key higher order documents.

### **5.3.2 Policy, Rule and Method Evaluation**

This section assists to identify the provisions (i.e. policies, rules and methods) that are the most appropriate to achieve the objective.

Table 7 Evaluation of provisions

Provisions most appropriate	Effectiveness and Efficiency	
	Benefits	Costs
10.1.2 Policy– Location of new hazardous facilities	<p><b>Environmental:</b> The proposed policies, rules and methods achieve a balanced approach towards the management of Hazardous Substances and the risks which they present on the Environment. The provisions ensure careful management and operation of hazardous facilities to ensure adverse effects are either avoided or mitigated.</p> <p><b>Economic:</b> The proposed policies, rules and methods recognise the economic benefits associated with hazardous facilities, while also ensuring sensitive land uses are protected by reducing the probability of significant costs to the community and ratepayers in the case of a major incident caused by hazardous substances.</p> <p><b>Social:</b> The proposed policies and methods will protect the health and safety of people and communities from the residual risk of hazardous facilities. The benefits for the community are that hazardous facilities can be appropriately identified and sited, particularly where sensitive land uses are located.</p>	<p><b>Environmental:</b> The evaluation of risks posed on the environment with respect to hazardous substances can be a cost to the hazardous facility operator and the ratepayers where Council needs specialist input. However the cost of minimising risk from activities can not be overstated, particularly where there is a risk to human health and safety.</p>
10.1.3 Policy – Residual risks of hazardous substances		<p><b>Economic:</b> There is the potential for loss of land development within proximity of existing hazardous facilities. Additionally there are costs involved in the RMA process where a hazardous facility operator needs to undertake a resource consent for the activity. Depending on the nature of the application this can be a reasonable cost for development of a site.</p>
10.1.4 Policy – Reverse sensitivity effects		<p><b>Social:</b> The costs associated with hazardous facilities when an incident occurs can be worn by the community and ratepayers.</p>

	<p><b>Cultural:</b> The proposed policies and methods take into account the potential impacts hazardous substances can have on the environment, which is highly valued by tangata whenua and is acknowledged through Iwi Environmental Plans.</p>	<p><b>Cultural:</b> NA</p>
<p><b>Opportunities for economic growth and employment</b></p>		
<p>Hazardous Facilities include a wide range of activities from service stations to commercial or industrial sites which manufacture products etc. Such activities contribute significantly to the Waikato District's economy and provide employment for people.</p>		
<p><b>Options less or not as appropriate to achieve the objective</b></p>		
<p><b>Option 1 – Do Nothing</b></p> <p>This approach would mean that there are no provisions in the District Plan which relate to hazardous substances.</p> <p><b>Appropriateness:</b> This option has been disregarded, as it would not achieve the best outcome for the District with respect to the management of hazardous substances and has the potential to have significant impacts if hazardous facilities were located within proximity of sensitive land uses.</p>		
<p><b>Option 2 – Status Quo</b></p> <p>This approach would adopt the provisions already contained within the Waikato and Franklin sections of the Waikato District Plan. These provisions include rules, objectives and policies which include a list of substances, quantities and thresholds which determine activity status.</p> <p><b>Appropriateness:</b> While this option is more appropriate than the “do nothing” approach, both plan provisions are dated and do not necessarily reflect best practice.</p>		
<p><b>Option 4 – Using non-regulatory methods or incentives</b></p> <p>This approach would rely on processes outside of the District Plan to manage the effects of hazardous substances.</p> <p><b>Appropriateness:</b> This option would not support the above objectives or protect our community to a level considered necessary nor meet the requirements of the RMA in order to manage residual risk to people, property and the environment.</p>		

### Risk of acting or not acting

#### Uncertainty or insufficiency of information:

There is sufficient information known in regards to the risks presented by hazardous substances. However there is less certainty in regards to the potential adverse effects of hazardous facilities on people, property and on sensitive environments.

#### Risk of acting or not acting:

The risk of not acting is that hazardous facilities establish in locations that will impact on sensitive land uses or in locations that are inappropriate and pose risk to human health and safety.

### Efficiency and effectiveness

The proposed plan aims to enable hazardous facilities to locate and operate using hazardous substances which meets the permitted quantity thresholds contained within Appendix 6, which contains an Activity Status Table. Using the AST is considered the most efficient and effective mechanism to determine compliance with the plan. The use of the AST is efficient in the way that it enables individual hazardous substances to be assessed according to substance class rather than individual substance.

In regards to controlled activities (relating to service stations), a list of matters which control is reserved over has been included. These matters aim to address all matters relevant to the potential adverse effects on the environment that relate to hazardous facilities and are necessary to implement the objectives of the plan.

Where an activity does not meet either a permitted or controlled activity, they become discretionary activities, which give Council full discretion to consider the effects of the proposal.

When this option is considered against the status quo or the do nothing option, this option is a more efficient and effective means of achieving the objectives for the use of hazardous substances.

## 6 CONCLUSION

After undertaking an evaluation as required by Section 32 of the RMA, the Objective is considered the most appropriate way to achieve the Purpose of the RMA (Section 5) for addressing the management of hazardous substances.

It is considered that the recommended policies and methods outlined above are the most appropriate way for achieving the objective, having considered:

- (i) other reasonably practicable options for achieving the objective; and
- (ii) assessing the efficiency and effectiveness of the provisions in achieving the objective.

## APPENDIX I PROVISION CASCADE

Issue to be addressed	Objective	Policies	Rules	Assessment Criteria
<p>Hazardous substances can have adverse effects on the natural environment, people and property, particularly beyond the boundaries of the hazardous facility at which they are managed.</p>	<p>10.1.1 Objective – Effects of hazardous substances</p> <p>(a) Residual risk associated with the storage, use, or disposal of hazardous substances is managed to ensure that the effects on people, property and the environment are acceptable, while recognising the benefits of facilities using hazardous substances.</p>	<p>10.1.2 Policy– Location of new hazardous facilities</p> <p>(1) New hazardous facilities minimise the risk to the environment (including people and property) to acceptable levels by:</p> <p>(a) Siting new hazardous facilities in appropriate locations that are separated from incompatible activities and environment;</p> <p>(b) Avoid locating near to sensitive land use activities and infrastructure</p> <p>(c) Designing, constructing and operating hazardous facilities in a manner that ensures the adverse effects of the operation or an accidental event involving hazardous substances can be contained within the site; and</p> <p>(d) Disposing hazardous wastes to authorised disposal or treatment facilities that</p>	<p>Within each zone:</p> <p>Permitted activities</p> <p>Controlled activities</p> <p>Discretionary activities</p> <p>Appendix 5</p>	<p>For controlled activities for service stations, the matters Council has reserved control over relate to:</p> <p>a) Site design;</p> <p>b) Layout; and</p> <p>c) Monitoring and reporting of incidents.</p>

		<p>have appropriate management systems in place.</p> <p>10.1.3 Policy – Residual risk of hazardous substances  (a) Facilities for the use, storage or disposal of hazardous substances shall identify and assess potential adverse effects (including cumulative risks and potential effects of identified natural hazards) to prevent unacceptable levels of risk to human health, safety, property and the natural environment.</p> <p>10.1.4 Policy – Reverse sensitivity effects  (a) Separate sensitive land use activities from lawfully-established hazardous facilities;  (b) Separate new hazardous facilities from existing sensitive land use activities; and  (c) Avoid the storage, processing or disposal of hazardous waste in sensitive</p>		
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## **APPENDIX 2 SUPPORTING TECHNICAL ADVICE**