

OFFICER'S REPORT FOR:

Independent Hearing Commissioners:

Commissioner Robinson

Commissioner St Clair

Commissioner Pomare

Commissioner Williams

SUBJECT:

**Proposed Porirua District Plan: Hazardous
Substances**

PREPARED BY:

Michael David Rachlin

REPORT DATED:

5th November 2021

DATE OF HEARING:

3,6-8,10 December 2021

Executive Summary

1. This report considers submissions received by Porirua City Council (the Council) in relation to the relevant objectives, policies, rules, definitions, appendices and maps of the Proposed Porirua District Plan (PDP) as they apply to the Hazardous Substances chapter. The report outlines recommendations in response to the issues that have emerged from these submissions.
2. There were a number of submissions received on the Hazardous Substances chapter. The submissions received generally supported the notified plan provisions but variously seek changes to improve clarity or to define the level of risk from hazardous substances considered appropriate to acknowledged matters of importance.
3. Given the relatively low number of submissions on this chapter, this report addresses each submission.
4. I have recommended one change to the PDP provisions to address matters raised in submissions, which is to provide policy clarity regarding the intended mitigation hierarchy involved in managing the adverse residual effects of hazardous substances.
5. Having considered all the submissions and reviewed all relevant statutory and non-statutory documents, I recommend that PDP should be amended as set out in section Appendix A of this report.
6. For the reasons included throughout this report, I consider that the proposed objectives and provisions, with the recommended amendments, will be the most appropriate means to:
 - achieve the purpose of the Resource Management Act 1991 (RMA) where it is necessary to revert to Part 2 and otherwise give effect to higher order planning documents, in respect to the proposed objectives, and
 - achieve the relevant objectives of the PDP, in respect to the proposed provisions.

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Interpretation

7. Parts A and B of the Officer's reports utilise a number of abbreviations for brevity as set out in Table 1 below:

Table 1: Abbreviations

Abbreviation	Means
the Act / the RMA	Resource Management Act 1991
the Council	Porirua City Council
the Operative Plan/ODP	Operative Porirua District Plan 1999
the Proposed Plan/PDP	Proposed Porirua District Plan 2020
GWRC	Greater Wellington Regional Council
NES	National Environmental Standard
NES-AQ	National Environmental Standards for Air Quality 2004
NES-CS	National Environmental Standards for Assessing and Managing Contaminants in Soil to Protect Human Health 2011
NES-ETA	National Environmental Standards for Electricity Transmission Activities 2009
NES-FW	National Environmental Standards for Freshwater 2020
NES-MA	National Environmental Standards for Marine Aquaculture 2020
NES-PF	National Environmental Standards for Plantation Forestry 2017
NES-SDW	National Environmental Standards for Sources of Drinking Water 2007
NES-TF	National Environmental Standards for Telecommunication Facilities 2016
NPS	National Policy Statement
NPS-ET	National Policy Statement on Electricity Transmission 2008
NPS-FM	National Policy Statement for Freshwater Management 2020
NPS-UD	National Policy Statement on Urban Development 2020
NPS-REG	National Policy Statement for Renewable Electricity Generation 2011
NZCPS	New Zealand Coastal Policy Statement 2010
PNRP	Proposed Wellington Natural Resources Plan (Decisions Version) 2019
RPS	Wellington Regional Policy Statement 2013

Table 2: Abbreviations of Submitters' Names

Abbreviation	Means
Dept of Corrections	Ara Poutama Aotearoa the Department of Corrections
DOC	Department of Conservation Te Papa Atawhai
FENZ	Fire and Emergency New Zealand
Foodstuffs	Foodstuffs North Island Limited
Forest and Bird	Royal Forest and Bird Protection Society
GWRC	Greater Wellington Regional Council
Harvey Norman	Harvey Norman Properties (N.Z.) Limited
Heritage NZ	Heritage New Zealand Pouhere Taonga
House Movers Association	House Movers section of the New Zealand Heavy Haulage Association Inc
KiwiRail	KiwiRail Holdings Limited
NZDF	New Zealand Defence Force

Oil companies	Z Energy, BP Oil NZ Ltd and Mobil Oil NZ Limited
Oranga Tamariki	Oranga Tamariki – Ministry of Children
QEII	Queen Elizabeth the Second National Trust
RNZ	Radio New Zealand
Survey+Spatial	Survey+Spatial New Zealand (Wellington Branch)
Telco	Spark New Zealand Trading Limited, Chorus New Zealand Limited, Vodafone New Zealand Limited
Transpower	Transpower New Zealand Ltd
TROTR	Te Rūnanga o Toa Rangatira
Waka Kotahi	Waka Kotahi NZ Transport Agency
WE	Wellington Electricity Lines Limited
Woolworths	Woolworths New Zealand Limited

In addition, references to submissions includes further submissions, unless otherwise stated.

1 Introduction

1.1 Purpose

8. The purpose of this report is to provide the Hearing Panel with a summary and analysis of the submissions received on the Hazardous Substances chapter and to recommend possible amendments to the PDP in response to those submissions.
9. This report is prepared under section 42A of the RMA. It considers submissions received by the Council in relation to the relevant objectives and policies as they apply to the Hazardous Substances chapter in the PDP. The report outlines recommendations in response to submissions received on this chapter.
10. This report discusses general issues, the original submissions received following notification of the PDP, makes recommendations as to whether or not those submissions should be accepted or rejected, and concludes with a recommendation for changes to the PDP provisions or maps based on the preceding discussion in the report.
11. This report is provided to assist the Hearings Panel in their role as Independent Commissioners. The Hearings Panel may choose to accept or reject the conclusions and recommendations of this report and may come to different conclusions and make different recommendations, based on the information and evidence provided to them by submitters.
12. This report is intended to be read in conjunction with Officers' Report: Part A – Overview which contains factual background information, statutory context and administrative matters pertaining to the district plan review and PDP contaminated land chapter.

1.2 Author

13. My name is Michael David Rachlin. My qualifications and experience are set out in Appendix C of this report.
14. My role in preparing this report is that of an expert planner.
15. I was involved in the preparation of the PDP and authored the Section 32 Evaluation Reports for Residential Zones, Contaminated Land chapter, Hazardous Substances chapter, Temporary Activity chapter and General Industrial Zone.
16. Although this is a Council Hearing, I have read the Code of Conduct for Expert Witnesses contained in the Practice Note issued by the Environment Court December 2014. I have complied with that Code when preparing my written statement of evidence and I agree to comply with it when I give any oral evidence.
17. The scope of my evidence relates to Hazardous Substances chapter. I confirm that the issues addressed in this statement of evidence are within my area of expertise as an expert policy planner.
18. Any data, information, facts, and assumptions I have considered in forming my opinions are set out in the part of the evidence in which I express my opinions. Where I have set out opinions in my evidence, I have given reasons for those opinions.

19. I have not omitted to consider material facts known to me that might alter or detract from the opinions expressed.

1.3 Supporting Evidence

20. Given the matters addressed in this report and the recommendations I make, I have not relied on expert evidence, literature, legal cases or other material.

1.4 Key Issues in Contention

21. The Hazardous Substances chapter received eleven submissions and no further submissions. One submission opposes policy HAZ-P3, while two seek amendments.

22. The amendments sought are:

- The removal of the zero-tolerance approach to adverse effects of hazardous substances to people and the values and qualities of areas managed by overlays in the PDP.
- The introduction of a threshold related to the acceptability of risk from residual effects to the values and qualities of areas managed by overlays in the PDP.

23. I address each of these in my report.

1.5 Procedural Matters

24. At the time of writing this report there have not been any pre-hearing conferences, clause 8AA meetings or expert witness conferencing in relation to submissions on this chapter.

2 Statutory Considerations

2.1 Resource Management Act 1991

25. The PDP has been prepared in accordance with the RMA and in particular, the requirements of:

- section 74 Matters to be considered by territorial authority, and
- section 75 Contents of district plans,

26. As set out in Section 32 Evaluation Report Part 1 - Overview to s32 Evaluation, there are a number of higher order planning documents and strategic plans that provide direction and guidance for the preparation and content of the PDP. These documents are discussed in detail within the Section 32 Evaluation Report Part 2: Hazardous Substances. There is further discussion in the Section 32 Evaluation Report Part 1 – Overview to the s32 Evaluation on the approach the Council has taken to giving effect to the NPS-UD and NPS-FM. This is also discussed in the Officer's Report: Part A.

27. The section 32 evaluation report for the hazardous substances chapter¹ identified the following Strategic Objectives as being relevant to the contaminated land chapter; FC-03 and REE-05. Submissions on those Strategic Objectives are addressed in the Strategic Objectives s42A report, to be heard in hearing stream, HS3. I would note that the submissions only seek minor changes to the wording of these Strategic Objectives and do not alter the intent or outcome identified by them. The amendments sought do not have any impact on the hazardous substances provisions, over and above that identified in the s32 evaluation report for hazardous substances.

28. Given the above, I do not address these submissions further in this report.

2.2 Section 32AA

29. I have undertaken an evaluation of the recommended amendments to provisions since the initial section 32 evaluation was undertaken in accordance with s32AA. Section 32AA states:

32AA Requirements for undertaking and publishing further evaluations

(1) A further evaluation required under this Act—

(a) is required only for any changes that have been made to, or are proposed for, the proposal since the evaluation report for the proposal was completed (the changes); and

(b) must be undertaken in accordance with section 32(1) to (4); and

(c) must, despite paragraph (b) and section 32(1)(c), be undertaken at a level of detail that corresponds to the scale and significance of the changes; and

(d) must—

¹ PCC Section 32 Evaluation Report Part 2: Hazardous substances

(i) be published in an evaluation report that is made available for public inspection at the same time as the approved proposal (in the case of a national policy statement or a New Zealand coastal policy statement or a national planning standard), or the decision on the proposal, is notified; or

(ii) be referred to in the decision-making record in sufficient detail to demonstrate that the further evaluation was undertaken in accordance with this section.

(2) To avoid doubt, an evaluation report does not have to be prepared if a further evaluation is undertaken in accordance with subsection (1)(d)(ii).

30. The required section 32AA evaluation for changes proposed as a result of consideration of submissions with respect to the Hazardous Substances chapter is contained within the assessment of the relief sought in submissions in section 3 of this report as required by s32AA(1)(d)(ii), while noting that my recommended amendments are generally restricted to improvements to clarity.

2.3 Trade Competition

31. Trade competition is not considered relevant to the Hazardous Substances provisions of the PDP.

32. There are no known trade competition issues raised within the submissions.

3 Consideration of Submissions and Further Submissions

3.1 Overview

33. There were eleven submissions and no further submissions received on the hazardous substances chapter and only one opposed an aspect of the hazardous substances provisions of the PDP. Overall, three submissions seek amendments, which are primarily concerned with providing clarification and/or amendments to the proposed management regime for hazardous substances.
34. The section 32 evaluation report for the hazardous substances chapter² identified the following Strategic Objectives as being relevant to the contaminated land chapter; FC-03 and REE-05. Submissions to those Strategic Objectives are addressed in the Strategic Objectives s42A report, to be heard in hearing stream, HS3. I would note that the submissions only seek minor changes to the wording of these Strategic Objectives and do not alter the intent or outcome identified by them. The amendments sought do not have any impact on the hazardous substances provisions, over and above that identified in the s32 evaluation report for hazardous substances.
35. Given the above, I do not address these submissions further in this report.

3.1.1 Report Structure

36. Given the low number of submissions received on the hazardous substances chapter and in accordance with Clause 10(3) of the First Schedule of the RMA, I have undertaken the following evaluation on a provisions-based approach, as opposed to a submission by submission approach. I have organised the evaluation in accordance with the layout of chapters of the PDP as notified.
37. Due to the low number of submission points, this evaluation contains specific recommendations on each submission point where an amendment to the PDP is sought. Specific recommendations on each submission point are contained in Appendix B.
38. The following evaluation should be read in conjunction with the summaries of submissions and the submissions themselves. Where I agree with the relief sought and the rationale for that relief, I have noted my agreement, and my recommendation is provided in the summary of submission table in Appendix B. Where I have undertaken further evaluation of the relief sought in a submission(s), the evaluation and recommendations are set out in the body of this report. I have provided a marked-up version of the Chapter with recommended amendments in response to submissions as Appendix A.

3.1.2 Format for Consideration of Submissions

39. For each identified topic, I have considered the submissions that are seeking changes to the PDP in the following format:
- Matters raised by submitters;
 - Assessment;
 - Summary of recommendations; and

² PCC Section 32 Evaluation Report Part 2: Hazardous substances

- Section 32AA evaluation.

40. The recommended amendments to the Hazardous Substances chapter is set out in in Appendix A of this report where all text changes are shown in a consolidated manner.

41. I have undertaken a s32AA evaluation in respect to the recommended amendments in my assessment.

3.2 Objectives

3.2.1 Objective HAZ-O1 Protection from residual risk

3.2.1.1 Matters raised by submitters

42. The oil companies [123.8] support the intent of Objective HAZ-O1 but consider it is not appropriate to protect a value or place from residual risk (i.e. after mitigation has occurred). The submitter considers that the test must be about the acceptability of the risk rather than whether there is zero risk. They note that international risk acceptance criteria (especially those used in New Zealand in the absence of specific New Zealand derived criteria) generally establish different levels of acceptable risk for different environments. The submitter considers that a zero-risk objective would mean that there may be no pest control allowed in the area for example.

43. The submitter seeks the following changes to the objective to overcome their concern:

People and the identified values and qualities of the Overlays in Schedules 2 to 11 are protected from any unacceptable level of residual risk of the use, storage and disposal of hazardous substances.

3.2.1.2 Assessment

44. As identified in the s32 evaluation report for this chapter³, the use, storage, and disposal of hazardous substances is largely controlled under the HSNO Act and WorkSafe Act. These combined with regional instruments, including the PNRP, create a comprehensive framework for managing hazardous substances, including in terms of protecting human health and safety, and effects on natural resources such as land, air and water. As such the role of the district plan is restricted to controlling effects on land and land use under the RMA that are not dealt with by other regimes. In other word, residual effects.

45. In considering the above, I agree with the submitters' concern. As currently worded the outcome sought is the protection of the values and qualities of the Schedule 2-11 overlay areas from any adverse effect not otherwise managed by another statutory instrument⁴. I agree that a risk threshold is necessary to achieve a more calibrated outcome based on the degree of risk and harm, rather than absolute protection.

3.2.1.3 Summary of recommendations

46. I recommend for the reasons given in the assessment, that the Hearings Panel:

³ PCC Section 32 Evaluation Report Part 2: Hazardous substances

⁴ PDP definition of "residual risk"

- a. Amend HAZ-O1 as set out below and in section Appendix A:

HAZ-O1	Protection from residual risk
People and the identified values and qualities of the Overlays in Schedules 2 to 11 are protected from <u>any unacceptable level of</u> ⁵ residual risk of the use, storage and disposal of hazardous substances.	

47. I recommend that the submission from the oil companies [123.3] be **accepted**.

3.2.1.4 S32AA evaluation

48. In my opinion, the amendment to Objective HAZ-O1 is more appropriate in achieving the purpose of the RMA than the notified provisions. In particular, I consider that:

- It continues to protect matters of national importance and other matters of acknowledged importance from inappropriate development but calibrates that protection to the actual level of effects.
- There will be benefits from improved clarity and direction provided by the amended objective.

3.3 Policies

3.3.1 Policy HAZ-P2 Residual risk to people and communities

3.3.1.1 Matters raised by submitters

49. The oil companies [123.11] support the intent of Policy HAZS-P2, however, they consider the use of the word avoid at the start of the sentence to be contrary to the intent of the policy, as it then further seeks to remedy and mitigate residual risks to an acceptable level. The submitter considers this could be clarified by way of the following wording:

Avoid use and development which uses, stores or disposes of hazardous substances from locating in areas where they may adversely affect the health and wellbeing of people and communities, unless ~~they can~~ it can be demonstrated that the residual risk to people and communities will be avoided, or where avoidance is not practicable, remedied or mitigated to an acceptable level.

3.3.1.2 Assessment

50. I agree with the submitter that the PDP wording provides an effects management regime which does not distinguish or otherwise elevate avoidance of residual risk over remedying or mitigation. In my opinion, the amended wording would provide improved clarity and direction on the management of residual risk by more clearly setting out the effects-based hierarchy. The amended policy would also be consistent with HAZ-P3 (Residual Risk in Overlays).

⁵ Oil companies [123.8]

3.3.1.3 Summary of recommendations

51. I recommend for the reasons given in the assessment, that the Hearings Panel:

- a. **Amend** Policy HAZ-P2 as set out below and in section Appendix A.

HAZ-P2	Residual risk to people and communities
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HAZ-P2	Avoid use and development which uses, stores or disposes of hazardous substances from locating in areas where they may adversely affect the health and wellbeing of people and communities, unless they can <u>it can be</u> ⁶ demonstrate that the residual risk to people and communities will be avoided, <u>or where avoidance is not practicable,</u> ⁷ remedied or mitigated to an acceptable level.
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52. I recommend that the submission from the oil companies [123.11] be **accepted**.

3.3.1.4 S32AA evaluation

53. In my opinion, the amendment to Policy HAZ-P2 is more appropriate in achieving the objectives of the PDP than the notified provisions. In particular, I consider that:

- It better clarifies and articulates the effects-based hierarchy for residual risk, where associated with use and development that uses, stores or disposes of hazardous substances.
- The recommended amendments will not have any greater environmental, economic, social, and cultural effects than the notified provisions. However, there will be benefits from improved clarity and direction provided by the amended policy.

3.3.2 Policy HAZ-P3 Residual risk in Overlays

3.3.2.1 Matters raised by submitters

54. The oil companies [123.12] oppose Policy HAZ-P3 as they consider it requires avoidance of residual risk. The submitter considers this is nonsensical, as by its own nature, residual risk is the risk that remains after mitigation is applied. They consider that the wording, as stated, effectively requires a zero-tolerance approach and would result in unintended impediments. As an example, they question how it would be possible to demonstrate that a gas connection to a historic building does not pose a potential risk to that building.

55. The submitter considers that the policy could be amended by making changes along the following lines:

Avoid use and development which uses, stores or disposes of hazardous substances, from locating within the following areas, unless it can be demonstrated that the residual risk to the

⁶ Oil companies [123.11]

⁷ Ibid

identified values and qualities of these areas will be avoided, or where avoidance is not practicable, remedied or mitigated is acceptable.

3.3.2.2 Assessment

56. I disagree with the submitter that the policy assumes a zero-risk approach and with their defining of “residual risk” as being the risk that remains after mitigation is applied. I also note that the management approach in the policy is similar to that in HAZ-P2, to which the submitter did not oppose.
57. The PDP definition⁸ of residual risk is the risk that remains after other industry and statutory controls have been complied with. As such, this residual risk represents risks that would not otherwise be managed other than via the district plan. Policy HAZ-P3, then requires this residual risk to be avoided, or where avoidance is not practicable, to be remedied or mitigated. As such, pathways do exist for the management of the residual risk that do not impose a zero-risk approach, but nonetheless contain an appropriate high threshold where avoidance is practicable.
58. As identified in paragraph 57 above, the district plan is the only regulatory instrument available to manage the residual risks to matters of national and acknowledged importance under the RMA such as heritage items and significant natural areas. As such I consider the effects-based hierarchy and high threshold in the notified HAZ-P3 to be more appropriate than the submitter's requested amendments in achieving the objectives of the PDP and the purpose of the RMA.
59. I also note that the submitter's amendment to Policy HAZ-P3 results in a threshold test rather than the effects management regime included in their requested Policy HAZ-P2. Both policies seek to implement the same objective (HAZ-O1). I am not clear why different management regimes are proposed by the submitter between residual risk to people and communities, and residual risk to matters of national and acknowledged importance. I am also not clear what residual risk would remain in their gas connection example that would need to be addressed⁹. The submitter might wish to expand on these in their evidence.

3.3.2.3 Summary of recommendations

60. I recommend for the reasons given in the assessment, that the submissions from the oil companies [123.12], be **rejected**.

⁸ Means, in relation to the Hazardous Substances chapter, any risk of an adverse effect after other industry controls, legislation and regulations, including the Hazardous Substances and New Organisms Act 1996, the Land Transport Act 1998, the Health and Safety at Work (Hazardous Substances) Regulations 2017, and regional planning instruments have been complied with.

⁹ The connection is likely to be a discretionary activity under INF-R45 (new infrastructure located on or within a heritage item, heritage setting, historic heritage site and, sites and areas of significance to Māori).

3.4 Definitions

3.4.1 Definition: residual risk

3.4.1.1 Matters raised by submitters

61. The oil companies [123.2] consider that residual risk is the level of risk that remains after mitigation measures have been undertaken. As such they seek that the definition of residual risk be amended and appropriately worded. They seek that the definition be amended as follows:

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

3.4.1.2 Assessment

62. I do not consider the changes sought by the submitter are necessary. It is clear from the notified definition that residual risk is the risk that remains after compliance with the named regulatory instruments. As such, adding the word, “remaining” into the definition would represent an unnecessary and superfluous addition, which does not better assist plan users or aide interpretation of the PDP.
63. Also, it is the risks that remain and not the level of risk that is to be identified by the definition. Issues of threshold and levels of risk that these risks represent, are matters more appropriately addressed at a policy level and not a definition.

3.4.1.3 Summary of recommendations

64. I recommend for the reasons given in the assessment, that the submissions from the oil companies [123.2], be **rejected**.

3.5 Other matters

3.5.1 Use of “avoid” in policies and objectives

3.5.1.1 Matters raised by submitters

65. In Hearing Stream 1, the Hearings Panel requested that submission 81.940 from Kāinga Ora be addressed for each topic as well as Hearing stream 1. This submission contained a general statement seeking amendments to remove reference to ‘avoiding’ activities in favour of ‘discourage’ or inclusion of qualifiers in relevant policies. This is in light of the specific meaning that ‘avoid’ has following on from Environmental Defence Society Inc v New Zealand King Salmon Company Ltd [2014] NZSC 38.

3.5.1.2 Assessment

66. I note for the Hazardous Substances topic, Kāinga Ora have sought that the whole chapter be retained as notified [81.401]. As such the submitter does not oppose the use of ‘avoiding’ policies for this topic.
67. HAZ-P2 and HAZ-P3, both seek to avoid activities which use, store or dispose of hazardous substances from locating in areas where they may adversely affect human health or in areas of

national and acknowledged importance. Both policies include qualifiers, including for HAZ-P3, the ability to remedy or mitigate adverse effects where avoidance is not practicable.

68. HAZ-P4, seeks to avoid sensitive activities from locating in areas which provide for activities which use, store or dispose of hazardous substances, for example the General Industrial Zone. While this policy does not provide a qualifier, I consider it appropriate for there to be a high threshold. These areas provide a key physical resource for Porirua and there is a risk that cumulative effects of sensitive activities locating in these areas will undermine their role and contribution to the economic wellbeing of the City. Sensitive activities are provided for in other parts of Porirua, so it is not necessary for them to locate in areas that provide for activities that use, store, or dispose of hazardous substances.
69. I would also note that no submission opposes or otherwise seeks amendments to this policy.

3.5.1.3 Summary of recommendations

70. I recommend for the reasons given in the assessment, that the submission from Kāinga Ora [81.940], be **rejected**. This is insofar as it relates to the Hazardous Substances topic.

4 Conclusions


71. Having considered all the submissions and reviewed all relevant statutory and non-statutory documents, I recommend that PDP should be amended as set out in Appendix A of this report.
72. For the reasons included throughout this report, I consider that the proposed objectives and provisions, with the recommended amendments, will be the most appropriate means to:
- achieve the purpose of the Resource Management Act 1991 (RMA) where it is necessary to revert to Part 2 and otherwise give effect to higher order planning documents, in respect to the proposed objectives, and
 - achieve the relevant objectives of the PDP, in respect to the proposed provisions.

Recommendations:

I recommend that:

1. The Hearing Commissioners accept, accept in part, or reject submissions (and associated further submissions) as outlined in Appendix B of this report; and
2. The PDP is amended in accordance with the changes recommended in Appendix A of this report.

Signed:

Name and Title		Signature
Report Author Michael David Rachlin		

Appendix A. Recommended Amendments to Hazardous Substances chapter

Where I recommend changes in response to submissions, these are shown as follows:

- Text recommended to be added to the PDP is in red and underlined.
- Text recommended to be deleted from the PDP is in red and ~~struckthrough~~.

HAZ - Hazardous Substances

Hazardous substances encompass those identified in the Hazardous Substances and New Organisms Act 1996 (HSNO) and include a wide range of substances such as medical waste, petroleum products including LPG and lubricating oils, explosives, and industrial, agricultural and household chemicals. These substances pose potential threats to the health and safety of people, and can have significant adverse effects on the environment. At the same time, their use, storage, manufacture and disposal allows people to provide for their social and economic wellbeing, and their health and safety.

There is a wide range of legislation and industry standards controlling hazardous substances. Principal amongst these is the HSNO Act which provides the general framework for controlling hazardous substances during their entire life-cycle. There are additional controls relating to hazardous substance within the City in the Proposed Natural Resources Plan for the Wellington Region, Land Transport Act 1998, Radiation Safety Act 2016, Building Act 2004, Health and Safety at Work Act 2015 and the Health and Safety at Work (Hazardous Substances) Regulations 2017.

Given the level of regulation controlling hazardous substances, the District Plan only addresses the residual adverse risk to people's health, risks to the environment and reverse sensitivity risks after other industry controls and legislation have been complied with.

Objectives

HAZ- O1 Protection from residual risk

People and the identified values and qualities of the Overlays in Schedules 2 to 11 are protected from [any unacceptable level of¹⁰](#) residual risk of the use, storage and disposal of hazardous substances.

HAZ- O2 Protection of activities involving hazardous substances

Established activities using, storing or disposing of hazardous substances are not compromised by sensitive activities.

Policies

HAZ- P1 Roles and responsibilities for managing hazardous substances

Recognise the role of national and regional organisations, including the Environmental Protection Authority, WorkSafe and Wellington Regional Council, in managing hazardous substances at the district, regional and national levels, and avoid regulating hazardous substances where an adequate level of human health and environmental protection is already provided.

¹⁰ Oil companies [123.8]

**HAZ- Residual risk to people and communities
P2**

Avoid use and development which uses, stores or disposes of hazardous substances from locating in areas where they may adversely affect the health and wellbeing of people and communities, unless ~~they can~~ it can be¹¹ demonstrate that the residual risk to people and communities will be avoided, or where avoidance is not practicable,¹² remedied or mitigated to an acceptable level.

**HAZ- Residual risk in Overlays
P3**

Avoid use and development which uses, stores or disposes of hazardous substances, from locating within the following areas, unless it can be demonstrated that the residual risk to the identified values and qualities of these areas will be avoided, or where avoidance is not practicable, remedied or mitigated:

1. Heritage items, heritage settings, and historic heritage sites identified in SCHED2 - Historic Heritage Items (Group A), SCHED3 - Historic Heritage Items (Group B), SCHED4 - Historic Heritage Sites;
2. Sites and areas identified in SCHED6 - Sites and Areas of Significance to Māori;
3. The root protection area of a notable tree identified in SCHED5 - Notable Trees;
4. An area identified in SCHED7 - Significant Natural Areas;
5. An area identified in SCHED8 - Urban Environment Allotments;
6. An area identified in SCHED9 - Outstanding Natural Features and Landscapes;
7. An area identified in SCHED10 - Special Amenity Landscapes; and
8. An area identified in SCHED11 - Coastal High Natural Character Areas.

**HAZ- Protection of activities involving hazardous substances
P4**

Avoid locating sensitive activities in areas which provide for activities which use, store or dispose of hazardous substances.

Rules

There are no rules in this chapter.

¹¹ Oil companies [123.11]

¹² Ibid

Appendix B. Recommended Responses to Submissions and Further Submissions

The recommended responses to the submissions made on this topic are presented in Table B 1 below.

Table B 1: Recommended responses to submissions

[Arrange this table in groups by topic for all but those chapters which have few submission points on them and those don't need to be grouped. Use the same groupings you have used in the body of the report so it is easy for the submitters to follow]

Sub. Ref.	Submitter / Further Submitter	Provision	Decision Requested	Section of this Report where Addressed	Officer's Recommendation	Officers' Reasons/Comments	Recommended Amendments to PDP?
General							
123.14	Oil companies	General	It is appropriate to rely on existing regulations provided for under WorkSafe and the HSNO Act requirements. Retain the intent of the Rule as currently worded.	n/a	Accept	Agree with Submitter	No
264.44	TROTR	General	Retain as notified	n/a	Accept in part	Accept in part, subject to amendments made in response to other submissions	No
81.401	Kāinga Ora	General	Retain as notified	n/a	Accept in part	Accept in part, subject to amendments made in response to other submissions	No
Definition							
123.2	Oil companies	Residual risk	The definition be amended as follows: Residual Risk: means, in relation to the Hazardous Substances chapter, <u>the level of any remaining</u> risk of an adverse effect after other industry controls (including mitigation), legislation and regulations, including the Hazardous Substances and New Organisms Act 1996, the Land Transport Act 1998, the Health and Safety at Work (Hazardous Substances) Regulations 2017, and regional planning instruments have been complied with.	3.4	Reject	See body of the report	No
81.142	Kāinga Ora	Residual risk	Retain as notified	n/a	Accept	Agree with submitter	No
Objective HAZ-O1							
123.8	Oil companies	HAZ-O1	Retain the intent of Objective HAZS-O1. Amend the objective to remove reference to residual risk and refer to the acceptability of a risk as follows: People and the identified values and qualities of the Overlays in Schedules 2 to 11 are protected from <u>any unacceptable level of</u> residual risk of the use, storage and disposal of hazardous substances.	3.2	Accept	See body of report	Yes
Objective HAZ-O2							
123.9	Oil companies	HAZ-O2	Retain the intent of Objective HAZS-O2.	n/a	Accept	Agree with submitter	No
Policy HAZ-P1							
123.10	Oil companies	HAZ-P1	Retain the intent of Policy HAZS-P1 as currently worded.	n/a	Accept	Agree with submitter	No
Policy HAZ-P2							
123.11	Oil companies	HAZ-P2	Clarify the intent of policy HAZS-P2 to ensure that the risk arising from the use, development, as well as the operation and maintenance of established hazardous facilities, remains at acceptable levels.	3.3	Accept	See body of the report	Yes

Sub. Ref.	Submitter / Further Submitter	Provision	Decision Requested	Section of this Report where Addressed	Officer's Recommendation	Officers' Reasons/Comments	Recommended Amendments to PDP?
			Amend the policy by making changes along the following lines: Avoid use and development which uses, stores or disposes of hazardous substances from locating in areas where they may adversely affect the health and wellbeing of people and communities, unless they can <u>it can be demonstrated</u> that the residual risk to people and communities will be avoided, <u>or where avoidance is not practicable</u> , remedied or mitigated to an acceptable level.				
Policy HAZ-P3							
123.12	Oil companies	HAZ-P3	Amend the policy by making changes along the following lines: Avoid use and development which uses, stores or disposes of hazardous substances, from locating within the following areas, unless it can be demonstrated that the residual risk to the identified values and qualities of these areas will be avoided, or where avoidance is not practicable, remedied or mitigated is <u>acceptable</u> :	3.3	Reject	See body of the report	No
Policy HAZ-P4							
123.13	Oil companies	HAZ-P4	Retain the intent of Policy HAZS-P4 as currently worded.	n/a	Accept	Agree with submitter	No
Other matters							
81.940	Kāinga Ora	General	Amendments are sought throughout the PDP to remove reference to 'avoiding' such activities, in favour of the term 'discourage', or inclusion of qualifying statements	3.5	Reject	See body of the report	No

Appendix C. Report Author's Qualifications and Experience

I hold the following qualifications: A BA(Hons) in Town & Country Planning (University of Manchester, UK), a Bachelor of Planning (with Credit) in Town & Country Planning (University of Manchester, UK) and a MSc in Environmental Assessment and Management (Oxford Brookes University, UK). I am a Chartered Town Planner and have been a Member of the Royal Town Planning Institute (UK) since 1991.

I have 32 years' experience in working as a planner for local government and the Hertfordshire Constabulary (UK). My work experience includes, amongst other matters, the interpretation and application of Regional Policy, input into statutory processes under the Resource Management Act 1991, as well as policy formulation. This includes appearing at a number of hearings (plan changes and subdivision) providing expert planning evidence on urban growth and urban form, land use-transport integration and the management of natural hazard risk. I have also been involved in Environment Court mediation involving the management of natural hazard risk.

I have been employed by the Porirua City Council since December 2017 as a Principal Policy Planner within the Environment and City Planning Team. Before then, I was employed as a:

- Strategy and Policy Planner at Selwyn District Council and where I worked on their review of the Selwyn District plan from January 2016 to November 2017; and
- Principal Planner at the Canterbury Regional Council ("CRC") and where I was employed in their District Plan Liaison team from 2008 until March 2015.

Before joining the Canterbury Regional Council in 2008, I held a number of positions, including as a Principal Planner and a team leader (consents), for various district councils in the UK. I was also employed by the Hertfordshire Police Authority as their Planning Obligations Manager, a post which involved seeking improved integration between land use planning and delivery of policing service and police infrastructure in district plans.