

Before the Independent Hearing Panel
Appointed by the Timaru District Council

Under Schedule 1 of the Resource Management Act 1991 (**RMA**)

In the matter of Submissions on the Proposed Timaru District Plan

Between **Various**

Submitters

And **Timaru District Council**

Respondent

Andrew Willis – Hearing D - s42A summary statement
Contaminated Land and Hazardous Substances chapters
7 November 2024

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Introduction

- 1 My name is Andrew Willis. I am the director of Planning Matters Limited (an independent planning consultancy based in Christchurch). I prepared the s42A report on the Contaminated Land and Hazardous Substances chapters. I confirm that I have read all the submissions, further submissions, submitter evidence and relevant technical documents and higher order objectives relevant to my s42A report. I have the qualifications and experience as set out in my s42A report.
- 2 The purpose of this summary is to provide the Panel and submitters with the following:
 - (a) A brief summary of key issues raised in submissions;
 - (b) Corrections I wish to make to my s42A report;
 - (c) A list of issues raised in evidence prior to the hearing, including identifying (where possible):
 - (i) issues that are resolved on the basis of the pre-circulated evidence; or
 - (ii) issues that remain outstanding pending the hearing of evidence; and
 - (d) Updates to the recommendations contained in my s42A report.

Summary of key issues

- 3 In my s42A report, I identified the following matters as the key issues raised in submissions:
 - (a) Whether to broaden out the contaminated land management responses to also include risks to indigenous biodiversity and the environment generally, rather than just risks to human health;
 - (b) Whether there is a need to control hazardous substances at all given their control in other legislation such as HSNO Act and the HSW Act;
 - (c) Clarifying the application of Quantitative Risk Assessments (QRA) for hazardous substances;
 - (d) Whether to provide a permitted pathway for extensions / upgrades to existing Major Hazardous Facilities (MHF);

- (e) Whether all the listed “sensitive environments” are relevant to MHF and hazardous facilities; and
 - (f) There are identified errors in the mapping of MHF on the planning maps and SCHED 2 - Schedule of Major Hazard Facilities.
- 4 Of the above, I note that those that appear to remain outstanding, with respect to evidence lodged are:
- (a) Whether all the listed “sensitive environments” are relevant to MHF and hazardous facilities - in particular the extent to which it is appropriate to exclude activities in the PORTZ from natural hazards management.
- 5 In addition to the key issues that were identified in the s42A report, I note that the following matters raised in submissions are further addressed in evidence:
- (a) Whether to exclude existing municipal waste transfer stations and the Redruth landfill from the definition of “hazardous facility”;
 - (b) Whether to exclude underground fuel tanks at service stations from HS-R1; and
 - (c) A number of matters of detail relating to provision drafting arising from the recommended changes in the s42A report.

Corrections to my s42A report

- 6 On the basis of evidence provided by Ms Westoby and Mr Trevilla¹ and by Ms Seaton² I note that I mistakenly did not amend the HS-R4 rule title to remove the reference to “additions to Major Hazard Facilities” (MHF) in this rule. Associated with this, I mistakenly recommended to reject submissions seeking this change, when I should have accepted these.³ This mistake occurred due to a change in approach mid report development after engaging with the Oil Companies on options to address additions to MHF.

¹ For BP Oil New Zealand Limited, Mobil Oil New Zealand Limited and Z Energy Limited (“The Oil Companies”) [196].

² For PrimePort Timaru Limited [175] and Timaru District Holdings Limited [186].

³ Both these matters are covered in paragraph 6.26 of the s42A report.

List of resolved and outstanding issues

- 7 A list of issues that are either resolved on the basis of pre-circulated evidence, or that remain outstanding pending the hearing of evidence, is attached at **Appendix A** in order to assist the Panel.

Updates to recommendations

- 8 I have not provided a preliminary view on all outstanding matters at this time, as I wish to hear the evidence and the Panel questions before I provide updated recommendations. I understand that I will have the opportunity to provide a formal response to the matters heard at the hearing.
- 9 However, at this stage, based on the evidence lodged, I consider the following to be appropriate:
- (a) Amending HS-R4 to remove the reference to additions to MHF as set out at paragraph 6 of this summary;
 - (b) Creating a new policy for the management of natural hazards for MHF, including deletion of this matter from HS-P1⁴, noting that I have not yet confirmed an opinion on how high hazards should be addressed in this new policy;
 - (c) Amending the definition of “sensitive locations” clause 2(a) in relation to wetlands;⁵
 - (d) Amending HS-R1 to exclude underground fuel storage tanks from the application of HS-R1 if located within a Flood Assessment Area, High Hazard Area and Sea Water Inundation Overlay, noting that I have not yet formed an opinion on whether to also exclude these tanks if located within a Fault Awareness Area, Liquefaction Awareness Areas or Drinking Water Protection Areas, or if permitted or consented under the Land and Water Regional Plan (LWRP);⁶

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⁴ Refer evidence of Ms Westoby and Mr Trevilla [196] at paragraphs 8.4 to 8.13.

⁵ Refer evidence of Ms Westoby and Mr Trevilla [196] at paragraphs 8.14 to 8.20.

⁶ Refer evidence of Ms Westoby and Mr Trevilla [196] at paragraphs 8.21 to 8.33.

APPENDIX A

Status of issues raised in evidence – Contaminated Land and Hazardous Substances Chapters – Hearing Stream D

Notes:

- 1 *Status: The status of the issue reflects my understanding of the status of resolution as between those submitters who pre-circulated evidence for Hearing Stream D. It does not attempt to reflect whether the issue is agreed between submitters who did not pre-circulate evidence for Hearing Stream D.*
- 2 *Status: An asterisk (*) against the status denotes where I have made an assumption based on the amendments I have recommended. However, I am not certain as to that status because the amendments I have recommended are different to that sought by the submitter.*
- 3 *Relevant submitters: Relevant submitters are those who pre-circulated evidence for Hearing Stream D. Other submitters who did not pre-circulate evidence may be interested in the issue (as submitters in their own right, or as further submitters) but they have not been listed here.*
- 4 *Orange shading identifies matters still outstanding.*

Issue (raised in evidence)	Relevant provision(s)	Status	Relevant submitter(s) that pre-circulated evidence
Whether to broaden out the contaminated land management responses to also include risks to indigenous biodiversity and the environment generally, rather than just risks to human health.	Contaminated Land Chapter objectives, policies and rules.	Resolved.	PrimePort Timaru Limited [175] and Timaru District Holdings Limited [186] – evidence of Ms Seaton at paragraph 15.
There are identified errors in the mapping of MHF on the planning maps and SCHED 2 - Schedule of Major Hazard Facilities.	Planning maps and SCHED 2 - Schedule of Major Hazard Facilities.	Resolved.	Silver Fern Farms [172] – statement of Mr Tuck, at paragraph 4.
Whether there is a need to control hazardous substances at all given their control in other legislation such as HSNO and the HSW Act.	The whole Hazardous Substances Chapter.	Resolved.	The Oil Companies [196] - evidence of Ms Westoby and Mr Trevilla at paragraphs 8.14 to 8.20 at paragraph 8.3.
Clarifying the application of Quantitative Risk Assessments (QRA) for hazardous substances.	Introduction, policies and rules in the Hazardous Substances Chapter.	Resolved.	The Oil Companies [196] - evidence of Ms Westoby and Mr Trevilla at paragraph 8.38.

Issue (raised in evidence)	Relevant provision(s)	Status	Relevant submitter(s) that pre-circulated evidence
Whether to provide a permitted pathway for extensions / upgrades to existing MHF.	Rule HS-R2.	Resolved.	The Oil Companies [196] - evidence of Ms Westoby and Mr Trevilla at paragraphs 8.37 to 8.39. PrimePort Timaru Limited [175] and Timaru District Holdings Limited [186] – evidence of Ms Seaton at paragraphs 41 and 42.
The definition of “sensitive locations” clause 2(a) is incorrect as the “riparian margin” definition already includes land within 50 m of a wetland, therefore cl (2)(a) essentially extends the definition to being within 150 m of a wetland, or, 100 m of a wetland, which appears to be a contradiction that should be corrected.	Definition of “sensitive locations” (in relation to wetlands).	Resolved.	The Oil Companies [196] - evidence of Ms Westoby and Mr Trevilla at paragraphs 8.14 to 8.20.
Appropriate wording of CL-O1 in relation to risk to human health.	CL-O1.	Outstanding.	The Oil Companies [196] - evidence of Ms Westoby and Mr Trevilla at paragraph 7.5.
Uncertainty regarding the meaning of “management works” and the intent of this policy which is not already addressed by CL-P2.	CL-P3.	Outstanding.	The Oil Companies [196] - evidence of Ms Westoby and Mr Trevilla at paragraph 7.16.
Whether to exclude existing municipal waste transfer stations and the Redruth landfill from the definition of “hazardous facility”;	Definition of “hazardous facility”.	Outstanding.	Enviro NZ [162] – statement of evidence of Kaaren Rosser dated 25 October 2024, at paragraph 5.9.
HS-P1(4) on natural hazards should be made its own policy because the policy direction is to avoid unacceptable risks of MHF which, by definition is not related to avoiding or	HS-P1 and proposed new Policy HS-PX.	Resolved that a new policy is preferred for the reasons provided in the evidence.	The Oil Companies [196] - evidence of Ms Westoby and Mr Trevilla at paragraphs 8.4 to 8.13.

Issue (raised in evidence)	Relevant provision(s)	Status	Relevant submitter(s) that pre-circulated evidence
minimising the adverse effects of natural hazards on MHF. It would thus be clearer for plan users that these two policy directions are kept separate.		Outstanding in relation to the specific wording of the proposed new policy.	PrimePort Timaru Limited [175] and Timaru District Holdings Limited [186] – evidence of Ms Seaton at paragraphs 24 to 32.
The extent to which it is appropriate to exclude the PORTZ in relation to natural hazards, particularly high hazard.	Definition of sensitive environments, HS-P1(3), HS-P1(4) and proposed new Policy HS-PX.	Outstanding.	PrimePort Timaru Limited [175] and Timaru District Holdings Limited [186] – evidence of Ms Seaton at paragraphs 16 to 32.
Whether to exclude underground fuel storage tanks from the application of HS-R1 for the reasons provided in evidence.	HS-R1.	Resolved in relation to locations within a Flood Assessment Area, High Hazard Area and Sea Water Inundation Overlay.	Refer evidence of Ms Westoby and Mr Trevilla [196] at paragraphs 8.21 to 8.33.
		Outstanding in relation to whether to also exclude these tanks if located within Fault Awareness Areas, Liquefaction Awareness Areas or Drinking Water Protection Areas, or where they are permitted or have consent under the LWRP.	