



Proposed Timaru District Plan

Section 42A Report: Contaminated Land and Hazardous Substances

Report on submissions and further submissions

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Appendix 1 - Recommended Amendments

Appendix 2 - Recommended responses to submissions and further submissions

List of Submitters and Further Submitters Addressed in this Report:

Original Submitters

Submitter Ref	Submitter Name	Abbreviation
42	Timaru District Council as a submitter	TDC
44	Rangitata Dairies Limited	Rangitata Dairies
49	Ixom Operations	Ixom Operations
53	Helicopters South Canterbury 2015 Limited	Helicopters Sth Cant.
66	Bruce Speirs	Bruce Speirs
100	David and Judith Moore	David and Judith Moore
105	Peel Forest Estate	Peel Forest Estate
106	Ministry of Education	MoE
113	Kerry & James McArthur	Kerry & James McArthur
116	Z Energy Limited	Z Energy
131	Fire and Emergency New Zealand	FENZ
132	New Zealand Agricultural Aviation Association	NZAAA
140	Southern Proteins Limited	Southern Proteins
155	Timaru Oil Services Limited	Timaru Oil
156	Royal Forest and Bird Protection Society	Forest and Bird
159	Transpower New Zealand Limited	Transpower
162	Enviro NZ Services Limited (formerly Enviro Waste Services Limited)	EnviroNZ
165	Fonterra Limited	Fonterra
168	Hilton Haulage Limited Partnership	Hilton Haulage
169	Road Metals Company Limited	Road Metals
170	Fulton Hogan Limited	Fulton Hogan
172	Silver Fern Farms Limited	Silver Fern Farms
173	Alliance Group Limited	Alliance Group
175	PrimePort Limited	PrimePort
182	Federated Farmers	Federated Farmers
186	Timaru District Holdings Limited	TDH
196	BP Oil, Mobil Oil NZ Ltd, Z Energy	BP Oil, et al
213	Southern Wide Helicopters	Southern Wide Helicopters
245	Horticulture NZ	Hort NZ

Further Submitters

Submitter Ref	Further Submitter Name	Abbreviation
132	New Zealand Agricultural Aviation Association	NZAAA
165	Fonterra Limited	Fonterra
172	Silver Fern Farms Limited	Silver Fern Farms
173	Alliance Group Limited	Alliance Group

Submitter Ref	Further Submitter Name	Abbreviation
175	PrimePort Limited	PrimePort
196	BP Oil, Mobil Oil NZ Ltd, Z Energy	BP Oil, et al
245	Horticulture NZ	Hort NZ
252	Timaru Developments Limited	TDL
265	New Zealand Helicopter Association	NZHA
274	South Pacific Sera Limited	South Pacific Sera
278	Rooney Group Limited, Rooney Holdings Ltd, Rooney Earthmoving Ltd and Rooney Farms Ltd	Rooney Group et al

Abbreviations Used in this Report:

Abbreviation	Means
CE	Coastal Environment
The Council	Timaru District Council / territorial authority
CRPS	Operative Canterbury Regional Policy Statement
DIS	Discretionary
DPR	District Plan Review
EW	Earthworks
HSNO	Hazardous Substances and New Organisms Act 1996
HSWA	Health and Safety at Work Act 2015
MHF	Major Hazardous Facilities
NC	NC
NESCS	Resource Management (National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health) Regulations 2011
NFL	Natural Features and Landscapes
NH	Natural Hazards
NPS	National Planning Standards
ONC	Outstanding Natural Character
ONL	Outstanding Natural Landscape
Operative Plan	Operative Timaru District Plan
PDP	Proposed Timaru District Plan
QRA	Quantitative Risk Assessment
RDIS	Restricted Discretionary
RMA	Resource Management Act 1991
RSI	Regionally Significant Infrastructure
SASMs	Sites and Areas of Significance to Māori
SHF	Significant Hazardous Facilities

1. Introduction

1.1 Experience and Qualifications

1.1.1 My name is Andrew Willis. I hold the following qualifications: Bachelor of Science in Ecology and a Masters of Science in Resource Management (an accredited planning degree). I am a full member of the New Zealand Planning Institute (NZPI). I have approximately 28 years' experience working as a planner for local and central government (in New Zealand and the UK), as well as planning consultancies. I have been the sole director of Planning Matters Limited (a town planning consultancy) since its inception in 2012. My relevant work experience for this s42A report includes, amongst other matters:

- Drafting / co-drafting / updating the strategic directions, natural hazards, transport, coastal environment, industrial, stormwater and infrastructure and energy chapters for the Proposed Timaru District Plan;
- Drafting the strategic directions, natural hazards and commercial and industrial provisions of the Proposed Waimakariri District Plan;
- Co-drafting and leading the review of the CRPS 2013; and
- Hearing submissions (as an independent hearings commissioner) on various chapters of the proposed Selwyn District Plan and proposed plan changes to the Mackenzie District Plan.

1.1.2 I was not the original author of the contaminated land or hazardous substances chapters covered in this s42A report, nor their s32 reports.

1.1.3 Although this is a Council hearing, I confirm that I have read the Code of Conduct for Expert Witnesses contained in the Environment Court Practice Note and that I have complied with it when preparing this report. I confirm that I have considered all the material facts that I am aware of that might alter or detract from the opinions that I express, and that this evidence is within my area of expertise, except where I state that I am relying on the evidence of another person. Having reviewed the submitters and further submitters relevant to this topic I advise there are no conflicts of interest that would impede me from providing independent advice to the Hearings Panel.

1.2 Purpose and Scope of this Report

1.2.1 The purpose of this report is to provide the Hearing Panel with a summary and analysis of the submissions received on this topic and to make recommendations in response to those submissions, to assist the Hearing Panel in evaluating and deciding on the submissions.

1.2.2 This report is prepared under section 42A of the RMA in relation to:

- The Contaminated Land Chapter;
- The Hazardous Substances Chapter;
- The Schedule of Major Hazardous Facilities;
- The Planning Maps; and
- Associated definitions.

1.2.3 This report considers the submissions and further submissions that were received in relation to the above topics. It includes recommendations to either retain provisions without amendment, delete, add to or amend the provisions, in response to these submissions. All recommended amendments are shown by way of ~~strikeout~~ and underlining in **Appendix 1** to this Report, or, in relation to mapping, through recommended spatial amendments to the mapping. Footnoted references to the relevant submitter(s) identify the scope for each recommended change.

1.2.4 The conclusions reached and recommendations made in this report are not binding on the Hearing Panel. It should not be assumed that the Hearing Panel will reach the same conclusions having considered all the information in the submissions and the evidence to be brought before them, by the submitters.

1.3 Procedural Matters

1.3.1 There are no outstanding procedural matters. At the time of writing this report there have been no pre-hearing meetings. I have however liaised with relevant submitters on providing wording for a permitted activity rule to cover upgrades / extensions / additions to Major Hazard Facilities (as set out in the report).

2. Topic Overview

2.1 Summary of Relevant Provisions of the PDP

2.1.1 This section of the report provides a brief summary of the provisions relevant to the topics covered.

Contaminated Land Chapter

2.1.2 This chapter provides objective and policy direction for the assessment of resource consent applications made under the NESCS. There are no rules in the chapter. The focus of the chapter is the management of contaminated land to protect human health.

Hazardous substances chapter

2.1.3 This chapter covers the management of hazardous substances, and in particular hazardous facilities and major hazardous facilities. The chapter acknowledges that the Hazardous Substances and New Organisms Act 1996 (HSNO) and the Health and Safety at Work Act 2015 (HSW) provide the general framework for controlling hazardous substances during their life cycle but do not take into account the sensitivity of the environment in which hazardous substances are located, or other relevant resource management issues.

2.1.4 Accordingly, the District Plan addresses the following resource management matters concerning hazardous substances:

- potential adverse effects on sensitive activities and sensitive environments;
- reverse sensitivity effects caused by sensitive activities locating too close to hazardous facilities;
- the risks to hazardous facilities from natural hazards and consequential risks to the environment;
- the cumulative effects of major hazard facilities locating too close each other.

Schedule of Major Hazard Facilities (SCHED2)

2.1.5 This is a schedule of all the Major Hazard Facilities (MHF) located within the District. It identifies the company, the address and the hazardous substances related activity.

Planning maps

2.1.6 The planning maps identify the various hazard facilities, along with buffer distances around Major Hazard Facilities.

Associated definitions

2.1.7 The Definitions chapter includes relevant definitions such as the definitions of:

- “Hazardous Facility”;
- “Potentially Contaminated Land”; and
- “Unacceptable Risk”.

2.2 Background to Relevant Provisions**Contaminated Land**

2.2.1 Soils are a natural resource, and under the RMA, their use, development and protection must be managed to sustain their potential to meet the needs of future generations and safe-

guard their life supporting capacity. Contaminated land can pose a risk to the environment and to people's health and safety if it is not identified and managed properly. In particular, subdivision, development, or change of use of contaminated land can expose people and the environment to increased levels of contamination from hazardous substances that were previously used or stored on site. The National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health (NESCS) contains a national rule framework for managing contaminated land but, as a Standard, does not include objective and policy guidance. This chapter therefore contains no rules (as the rules are in the NESCS) but does contain an objective and policies to support the application of the NESCS.

Hazardous Substances

- 2.2.2 Hazardous substances pose potential threats to the health and safety of people and can have significant adverse effects on the environment. At the same time, it is recognised that their use, storage, manufacture and disposal allow people to provide for their social and economic wellbeing, and their health and safety.
- 2.2.3 The Hazardous Substances and New Organisms Act 1996 (HSNO) aims to protect the environment and the health and safety of people from the adverse effects of hazardous substances. HSNO is largely implemented by the Environmental Protection Authority. The Health and Safety at Work Act 2015 (HSWA) aims to protect people against harm to their health, safety and welfare caused by risks arising from work. The HSWA is primarily implemented and enforced by WorkSafe New Zealand. Currently, both Acts govern the management of hazardous substances, with the HSNO Act providing the general framework that controls hazardous substances during their entire life cycle - from manufacturing or importing a substance, through to its use and disposal.
- 2.2.4 Some existing resource management controls such as those found in older District Plans on hazardous substances duplicate or add additional controls to those in place under HSNO and HSW, which can be confusing for users of hazardous substances. Sections 30 and 31 of the Resource Management Act 1991 (RMA) were amended in 2017 to remove the control of hazardous substances as an explicit function of councils. This means councils no longer have a specific obligation to regulate the use of hazardous substances in RMA plans.
- 2.2.5 However, as set out in the Hazardous Substances s32 report, there is scope within the RMA to address the following matters relating to the management of hazardous substances and facilities:
- Substances not included in HSNO;
 - Facilities in relation to incompatible and sensitive land uses;
 - Facilities in relation to sensitive natural environments/ecosystems;
 - Reverse sensitivity issues in relation to risk;
 - Cumulative risks; and

- Interaction with identified natural hazards.

2.2.6 Addressing the above matters in the District Plan will ensure any gaps between legislative frameworks are covered and any adverse environmental effects are comprehensively managed in accordance with Part II of the RMA. Given the level of regulation controlling hazardous substances, the District Plan need only address the matters that are not addressed by the other legislation. It also means the District Plan can focus on adverse effects that, while they may have a low probability of occurring, can have a potential significant adverse effect on the environment or human health and safety if they do occur. Accordingly, the proposed provisions focus on hazardous and MHF, instead of the hazardous substances themselves.

2.2.7 Hazardous facilities are defined in the PDP, while MHF are identified by WorkSafe New Zealand through a regulated process.¹ Typically MHF store or process very large amounts of hazardous substances that have the potential to cause catastrophic harm.

3. Overview of Submissions and Further Submissions

3.1.1 Overall, there were 30 original submissions on the Contaminated Land Chapter and 18 further submissions. There were 116 submissions on the Hazardous Substances Chapter and 31 further submissions. The full list of submission points addressed in this report are set out in **Appendix 2**.

3.1.2 The submissions received on the Contaminated Land Chapter, the Hazardous Substances chapter, definitions, SCHED2 - Schedule of Major Hazard Facilities and the planning map were diverse and sought a range of outcomes, with the key issues in contention set out in the table below. These issues are assessed in the 'Analysis and Evaluation of Submissions' section of this report against the chapter provisions.

ISSUE NAME	SUMMARY OF ISSUE	POSITION OF SUBMITTERS
Extent of effects management	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.	Include risks to indigenous biodiversity and the environment generally. This submission point is raised across several chapter provisions by the same submitter.
Duplication of management	Whether there is a need to control hazardous substances at all given their control in other legislation such as HSNO and the HSW Act.	Delete the provisions and do not cover hazardous substances. This submission point is raised across several chapter provisions by the same submitter.

¹ As per the Health and Safety at Work (Major Hazard Facilities) Regulations 2016.

QRAs	Clarifying the application of Quantitative Risk Assessments (QRA) for hazardous substances.	Clarify QRAs. This submission comment is raised across several chapter provisions by several submitters.
MHF extensions / upgrades	Whether to provide a permitted pathway for extensions / upgrades to existing MHF.	Provide a permitted pathway for upgrades. This submission comment is raised across several chapter provisions by several submitters.
Sensitive environments	Whether all the listed “sensitive environments” are relevant to MHF and hazardous facilities.	Delete or reduce the number of applicable “sensitive environments”. This submission comment is raised across several chapter provisions by several submitters.
Mapping of MHF	There are identified errors in the mapping of MHF on the planning maps and SCHED 2 - Schedule of Major Hazard Facilities.	Fix the errors. This submission comment is raised by several submitters.

4. Relevant Statutory Provisions

4.1.1 The assessment for the PDP includes the matters identified in sections 74-76 of the RMA. This includes whether:

- it is in accordance with the Council’s functions (s74(1)(a));
- it is in accordance with Part 2 of the RMA (s74(1)(b));
- it will give effect to any national policy statement or operative regional policy statement (s75(3)(a) and (c));
- the objectives of the proposal are the most appropriate way to achieve the purpose of the RMA (s32(1)(a));
- the provisions within the plan change are the most appropriate way to achieve the objectives of the District Plan (s32(1)(b)).

4.1.2 In addition, assessment of the PDP must also have regard to:

- any proposed regional policy statement, and management plans and strategies prepared under any other Acts (s74(2));
- the extent to which the plan is consistent with the plans of adjacent territorial authorities (s74 (2)(c)); and
- in terms of any proposed rules, the actual or potential effect on the environment of activities including, in particular, any adverse effect.

5. Statutory Instruments

- 5.1.1 The s32 reports for Contaminated Land and Hazardous Substances set out the statutory requirements and relevant planning context for these topics. Given the relatively straightforward nature of these topics I have not repeated the relevant provisions from the higher order planning framework.

6. Analysis and Evaluation of Submissions

6.1 Approach to Analysis

- 6.1.1 This report covers two chapters (Contaminated Land and Hazardous Substances) that have been grouped together for efficiency purposes as they are related. These chapters are addressed in turn, in both the body of this report and in Appendices 1 and 2.
- 6.1.2 The submissions on the chapters, maps, related schedule and definitions raised some general issues, but were principally applied to provisions. I have therefore structured this report principally on a provision-by-provision basis (as opposed to a topic basis), following the layout of the chapters.
- 6.1.3 For each identified topic, I have considered the submissions that are seeking changes to the PDP in the following format:
- Matters raised by submitters, together with the submission point in square brackets;
 - Assessment;
 - Summary of recommendations;
 - Recommended amendments to the PDP; and
 - S32AA evaluation, where relevant and at a level of detail appropriate to the changes being proposed.
- 6.1.4 Clause 10(2)(b), Schedule 1 of the RMA provides for consequential changes arising from the submissions to be made where necessary, as well as any other matter relevant to the PDP arising from submissions. Consequential changes recommended under clause 10(2)(b) are footnoted as such.
- 6.1.5 Clause 16(2), Schedule 1 of the RMA allows a local authority to make an amendment to a proposed plan without using a Schedule 1 process, where such an alteration is of minor effect, or may correct any minor errors. Any changes recommended under clause 16(2) are footnoted as such.
- 6.1.6 I have not individually referenced submissions in support of the provisions. However, where I am recommending changes to a provision, I have correspondingly recommended that the

submissions in support of a provision are accepted, or accepted or rejected in part, depending on the extent of the recommended changes.

6.1.7 Further submissions have been considered in the preparation of this report, but in general, they are not specifically mentioned because they are limited to the matters raised in original submissions and therefore the subject matter is canvassed in the analysis of the original submission. Further submissions may however be mentioned where they raise a valid matter not addressed in an original submission. Further submissions are not listed within Appendix 2. Instead, recommendations on the primary submissions indicate whether a further submission is accepted or rejected as follows:

- Where a further submission supports a primary submission and the primary submission is recommended to be accepted, or where a further submission opposes a primary submission and the primary submission is recommended to be rejected, the further submission is recommended to be accepted.
- Where a further submission supports a primary submission and the primary submission is recommended to be rejected, or where a further submission opposes a primary submission and the primary submission recommended to be accepted, the further submission is recommended to be rejected.
- Where a further submission supports or opposes a primary submission and the primary submission is recommended to be accepted in part, then the further submission is recommended to be accepted in part.

6.1.8 Helicopters Sth Cant. [53.1] and Southern Wide Helicopters [213.1], in a primary submission, support the submission of NZAAA and seek the same relief as sought in that submission. Discussion of the NZAAA submission points and recommendations made in relation to these therefore applies to that of Helicopters Sth Cant. [53.1] and Southern Wide Helicopters [213.1].

6.1.9 David and Judith Moore [100.2], Peel Forest [105.1] and Kerry and James McArthur [113.1], in a primary submission, support the submission of Federated Farmers and seek the same relief as sought in that submission. Discussion of the Federated Farmers submission points and recommendations made in relation to these therefore applies to that of David and Judith Moore [100.2], Peel Forest [105.1] and Kerry and James McArthur [113.1].

6.2 Provisions where no change is sought

6.2.1 Of the topics covered in this s42A report, only the Contaminated Land Introduction was either not submitted on, or any submissions received sought its retention. As such, these submissions are not assessed further in this report, and I recommend that the Contaminated Land Introduction is retained as notified.

6.3 CL Chapter – Overview

- 6.3.1 I have addressed the chapter submissions in the following order: Definitions; General; Introduction; Objective; Policies; and Rules.

6.4 CL Chapter – Definition of “potentially contaminated land”

- 6.4.1 The following table sets out the submission points covered in this section of the report (which may be individually or more broadly discussed). The decision requested in relation to each point is provided in full in **Appendix 2**:

SUBMITTER NAME	SUBMISSION POINT NUMBER(S)
Hort NZ	245.18

Submissions

- 6.4.2 Hort NZ [245.18] considers the definition of potentially contaminated land is very broad and should only include sites which are known to have had an activity undertaken on them. They seek the definition is amended as follows:

means land on which an activity or industry that is described in Appendix 2 - Hazardous Activities and Industries List is being, has been ~~or is more likely than not to have been~~ undertaken. This definition does not include land for which a detailed site investigation demonstrates that any contaminants present are at, or below, background concentrations.

Analysis

- 6.4.3 The wording in the notified definition is based on the application of the NESCS, which applies to land that has an activity or industry described in the Hazardous Activities and Industries List being undertaken on it or has been undertaken on it, together with land where it is more likely than not being undertaken or has been undertaken on it. I consider this alignment between the definition and the NESCS is appropriate and the definition accurate. I therefore recommend that this submission seeking changes to the definition is rejected.

Conclusions and Recommendations

- 6.4.4 I recommend that the submission from Hort NZ [245.18] is **rejected**.
- 6.4.5 No changes to the provisions are recommended.

6.5 CL Chapter – General

- 6.5.1 The following table sets out the submission points covered in this section of the report (which may be individually or more broadly discussed). The decision requested in relation to each point is provided in full in **Appendix 2**:

SUBMITTER NAME	SUBMISSION POINT NUMBER(S)
BP Oil, et al	196.43
Road Metals	169.2
Fulton Hogan	170.2

Submissions

- 6.5.2 BP Oil, et al [196.43] states that the chapter provisions use the term “Land Disturbance” which has a specific and relatively limited definition and relates to where the profile of the land is not altered on a permanent basis, but that given the chapter seeks to manage human health risks, the term “soil disturbance” (as applied under the NESCS) should be used instead. They seek to amend the Contaminated Land Chapter by replacing the words “Land Disturbance” with “soil disturbance”.
- 6.5.3 Road Metals [169.2] and Fulton Hogan [170.2] support the definition of “cleanfill”, but are concerned it only extends to depositing ‘virgin material’ which limits the ability to rehabilitate quarry areas due to the lack of availability of such material at any reasonable cost. They state that the PDP requires consent for rehabilitation involving any material not meeting this narrow definition of cleanfill as the rules only make reference to quarrying activities, not the deposition of inert material within the excavated area associated with, for example, rehabilitation. The definition also does not specifically include resource recovery unless it is simply recycling aggregate. Given the current direction to minimise waste and the implications of the waste levy, recovering material at a quarry site has advantages that the current plan does not realise.
- 6.5.4 Road Metals seeks that the PDP rules are amended to allow for quarry rehabilitation without a separate consent, noting that the rehabilitation can be addressed / assessed in the land use consent and to allow for recycling of resources (concrete, etc). Fulton Hogan seeks that the rules surrounding quarrying are amended to create a more integrated and efficient rule framework.

Analysis

- 6.5.5 Regarding the BP Oil, et al [196.43] submission, I agree that the NESCS refers to disturbing soil, however it is not a term defined in the PDP, nor the National Planning Standards. Land “Disturbance” and “Earthworks” are however defined in the National Planning Standards. While Earthworks could be used, I note it excludes gardening, cultivation, and disturbance of land for the installation of fence posts. These exclusions are not consistent with the NESCS and as such I agree that ‘soil disturbance’ would be an appropriate replacement. I therefore recommend that this submission is accepted.
- 6.5.6 Regarding the Road Metals [169.2] and Fulton Hogan [170.2] submissions, the support for the definition of “cleanfill” is noted. However, the Contaminated Land Chapter contains no rules restricting the activities the submitters’ raise and that the rules managing quarrying

activity and rehabilitation are addressed in the zone and overlay chapters, not the Contaminated Land Chapter. I understand that these submissions have been covered under [169.44] and [170.46] in the Rural Zone s42A report and both submission points are recommended to be rejected. Accordingly, I recommend that these submission points are accepted in part (in relation to the support for the definition of “cleanfill”).

Conclusions and Recommendations

- 6.5.7 I recommend that the submissions from BP Oil, et al [196.43] is **accepted**.
- 6.5.8 I recommend that the submissions from Road Metals [169.2] and Fulton Hogan [170.2] are **rejected**.
- 6.5.9 Replace all references to “Land Disturbance” in the Contaminated Land Chapter with a reference to “soil disturbance” as set out in **Appendix 1**.
- 6.5.10 I consider that the original s32 evaluation continues to apply as this change is minor in nature.

6.6 CL Chapter – Objective CL-O1 Management of contaminated land

- 6.6.1 The following table sets out the submission points covered in this section of the report (which may be individually or more broadly discussed). The decision requested in relation to each point is provided in full in **Appendix 2**:

SUBMITTER NAME	SUBMISSION POINT NUMBER(S)
Forest and Bird	156.80
Transpower	159.58
Road Metals	169.12
Fulton Hogan	170.13
Silver Fern Farms	172.20
Alliance Group	173.17

Submissions

- 6.6.2 Six submissions sought amendments to CL-O1 while one submission was in support.
- 6.6.3 Forest and Bird [156.80] considers that the objective needs to include reference to contaminated land being made safe for indigenous biodiversity rather than just risks to human health. They seek the following amendments to CL-O1:
- Contaminated land is made safe for human health, **and for the health of indigenous biodiversity**, and for its intended use, land disturbance, development or subdivision.*
- 6.6.4 Transpower [159.58] supports the intent of CL-O1 but suggests it should be expressed as an outcome and should better align to the implementing policies. They seek the following amendments:

Contaminated land is made safe for human health and its intended use before any ~~The~~ change of use, land disturbance, development or subdivision of contaminated land does not increase the risk to human health.

- 6.6.5 Road Metals [169.12] and Fulton Hogan [170.13] oppose CL-O1 as the wording is unclear and should be amended to provide clarity and assist implementation. They seek the following amendments:

Contaminated land is made safe ~~for human health and its intended use~~ before any change of use, land disturbance, development or subdivision so that human health of users and residents of the site is protected.

- 6.6.6 Silver Fern Farms [172.20] and Alliance Group Limited [173.17] consider the objective implies that contaminated land should be made safe for its intended use before any land disturbance, but that the objective should recognise that land disturbance is often part of the site remediation prior to a change of use. They seek the following amendments:

Contaminated land is made safe for human health and its intended use before any change of use, ~~and disturbance,~~ development or subdivision.

Analysis

- 6.6.7 Regarding the Forest and Bird [156.80] submission, whilst I accept that contaminated land might have adverse effects on indigenous biodiversity, the requested amendment goes beyond the NESCS requirements. Also, I consider that this change would be difficult to implement as the Council does not have sufficient technical data to identify the health risks to indigenous biodiversity, which includes flora and fauna, from all types of contamination. I therefore recommend that this submission is rejected.
- 6.6.8 Regarding the Transpower [159.58] submission, I consider that this requested wording is clearer and better aligns with the implementing policies. However, I favour wording that does not limit the objective to only where risk has been increased, noting that CL-P3 refers to encouraging a reduction in risk, and therefore recommend that this submission is accepted in part.
- 6.6.9 Regarding the Road Metals [169.12] and Fulton Hogan [170.13] submissions, I consider the wording provided by Transpower is similar in part to that proposed by Road Metals and Fulton Hogan and assists in providing clarity consistent with their request. I therefore recommend that their submissions are accepted in part.
- 6.6.10 Regarding the Silver Fern Farms [172.20] and Alliance Group Limited [173.17] submissions, I consider that the amendments proposed by Transpower resolves the issue these submitters raise but via different wording. I therefore recommend that these submissions are accepted in part.

Conclusions and Recommendations

- 6.6.11 I recommend that the submissions from Transpower [159.58], Silver Fern Farms [172.20], Alliance Group Limited [173.17], Road Metals [169.12] and Fulton Hogan [170.13] are **accepted in part**.
- 6.6.12 I recommend that the submission from Forest and Bird [156.80] is **rejected**.
- 6.6.13 As I am recommending changes to CL-O1, I recommend that the submission in support is **accepted in part** as set out in **Appendix 2**.
- 6.6.14 Amend CL-O1 as follows:
~~Contaminated land is made safe for human health and its intended use before any~~ The change of use, land disturbance, development or subdivision of contaminated land does not result in a risk to human health.
- 6.6.15 I consider that the original s32 evaluation continues to apply as this change is minor in nature and does not significantly change the intent of the provision.

6.7 CL Chapter – Policy CL-P1 Investigation of contaminated and potentially contaminated land

- 6.7.1 The following table sets out the submission points covered in this section of the report (which may be individually or more broadly discussed). The decision requested in relation to each point is provided in full in **Appendix 2**:

SUBMITTER NAME	SUBMISSION POINT NUMBER(S)
Forest and Bird	156.81
Road Metals	169.13
Fulton Hogan	170.14

Submissions

- 6.7.2 Three submissions sought amendments to CL-P1 while one submission was in support.
- 6.7.3 Forest and Bird [156.81] considers that the PDP should ensure contaminated land is made safe for the environment so it can contribute to indigenous biodiversity and seeks to amend CL-P1 as follows:
Require the investigation of contaminated land or potentially contaminated land prior to any change of use, land disturbance, development or subdivision of land that could result in an increase in the risk to human health and ecosystem health resulting from any contamination of the land
- 6.7.4 Road Metals [169.13] considers that there are instances where investigation is not feasible or efficient prior to soil disturbance, and that therefore a more flexible policy is sought. They seek the following amendments:

Require the investigation of contaminated land or potentially contaminated land prior to any change of use, land disturbance, development or subdivision of land that could result in an increase in the risk to human health resulting from any contamination of the land, except in instances where it is not safe or not practicable to undertake investigation prior to the project commencing, or if disturbance is required to ascertain contaminants.

- 6.7.5 Fulton Hogan [170.14] identifies the same concerns as Road Metals, but seeks the following alternative wording:

Require the investigation of contaminated land or potentially contaminated land prior to any change of use, land disturbance, development or subdivision of land that could result in an increase in the risk to human health resulting from any contamination of the land, except in instances where it is not safe or not practicable to undertake investigation prior to the project commencing.

Analysis

- 6.7.6 Regarding the Forest and Bird [156.81] submission, I recommend that this submission is rejected for the same reasons expressed above in response to their [156.80] suggested amendment to CL-O1.
- 6.7.7 Regarding the Road Metals [169.13] and Fulton Hogan [170.14] submissions, in my opinion including the requested words would not be consistent with the NESCS (which does not include this exclusion), and I therefore recommend that these submissions are rejected. In recommending this, I also note that the investigation could be a desktop assessment (a Preliminary Site Investigation under the NESCS for example) and as such, safety or feasibility would not be an issue.

Conclusions and Recommendations

- 6.7.8 I recommend that the submissions from Forest and Bird [156.81], Road Metals [169.13] and Fulton Hogan [170.14] are **rejected**.

- 6.7.9 No changes are recommended to the provisions.

6.8 CL Chapter – Policy CL-P2 Subdivision, use and development of contaminated land

- 6.8.1 The following table sets out the submission points covered in this section of the report (which may be individually or more broadly discussed). The decision requested in relation to each point is provided in full in **Appendix 2**:

SUBMITTER NAME	SUBMISSION POINT NUMBER(S)
Forest and Bird	156.82
Silver Fern Farms	172.21
Alliance Group	173.18

Submissions

- 6.8.2 Three submissions sought amendments to CL-P2 while one submission was in support.

- 6.8.3 Forest and Bird [156.82] considers that the PDP should ensure contaminated land is made safe for the environment so it can contribute to indigenous biodiversity and seeks to amend CL-P2 as follows:

Any proposal to subdivide, use or develop contaminated land must follow a best practice approach to:

- 1. manage contaminated soil to protect human health; and*
- 2. ensure the land is suitable for its intended use; and*
- 3. manage contaminated soil to protect indigenous biodiversity.*

- 6.8.4 Silver Fern Farms [172.21] and Alliance Group [173.18] consider that the use of 'best practice' implies there is a hierarchy of approaches or options to contaminated land management, but that instead the policy focus should be to require site management in accordance with accepted procedures codified in standards such as the Ministry for the Environment's 'contaminated land management guidelines'. They seek to amend 'best practice' with a reference to the guidelines or procedural manual that applications will be assessed against.

Analysis

- 6.8.5 Regarding the Forest and Bird [156.82] submission, I recommend that this submission is rejected for the same reasons expressed above in response to their [156.80] suggested amendment to CL-O1.
- 6.8.6 Regarding the Silver Fern Farms [172.21] and Alliance Group [173.18] submissions, I appreciate the submitters' concerns, but I do not favour referring to guidelines that could change over time, noting the requirements around incorporating external documents by reference. I note that reference to best practice is used in other district plans² so this is not an unusual approach. I also consider that a best practice approach is the appropriate approach to undertake. I therefore recommend that these submissions are rejected.

Conclusions and Recommendations

- 6.8.7 I recommend that the submissions from Forest and Bird [156.82], Silver Fern Farms [172.21] and Alliance Group [173.18] are **rejected**.
- 6.8.8 No changes are recommended to the provisions.

² See 4.2.2.1.1 Policy - Best practice approach in the Christchurch District Plan and Policy CL-P2 Best practice management of contaminated land in the Proposed Waimakariri District Plan.

6.9 CL Chapter – Policy CL-P3 Remediation and management works

6.9.1 The following table sets out the submission points covered in this section of the report (which may be individually or more broadly discussed). The decision requested in relation to each point is provided in full in **Appendix 2**:

SUBMITTER NAME	SUBMISSION POINT NUMBER(S)
Forest and Bird	156.83
Road Metals	169.14
Fulton Hogan	170.15

Submissions

6.9.2 Three submissions sought amendments to CL-P3 while one submission was in support.

6.9.3 Forest and Bird [156.83] considers that the proposed District Plan should ensure contaminated land is made safe for the environment so it can contribute to indigenous biodiversity and seeks to amend CL-P3 as follows:

Ensure that the risks to human and environmental health from any remediation of, or any management works undertaken on, contaminated land, do not increase, and, where possible encourage the reduction of those risks.

6.9.4 Road Metals [169.14] and Fulton Hogan [170.15] consider the wording is confusing and it should be amended for clarity and ease of implementation as follows:

Ensure that ~~the risks to human health from~~ any remediation of, or any management works undertaken on, contaminated land, do not increase the risks to human health from the contamination that is present, and, where possible encourage the reduction of those risks.

Analysis

6.9.5 Regarding the Forest and Bird [156.83] submission, I recommend that this submission is rejected for the same reasons expressed above in response to their [156.80] suggested amendment to CL-O1.

6.9.6 Regarding the Road Metals [169.14] and Fulton Hogan [170.15] submissions, in my opinion the requested amended wording is slightly clearer and I am therefore supportive of this change. I therefore recommend that these submissions are accepted.

Conclusions and Recommendations

6.9.7 I recommend that the submissions from Road Metals [169.14] and Fulton Hogan [170.15] are **accepted**.

6.9.8 I recommend that the submission from Forest and Bird [156.83] is **rejected**.

6.9.9 As I am recommending minor changes to improve clarity, I recommend that the submission in support of CL-P3 as set out in **Appendix 2** is **accepted in part**.

6.9.10 Amend CL-P3 as follows:

Ensure that ~~the risks to human health from~~ any remediation of, or any management works undertaken on, contaminated land, do not increase the risks to human health from the contamination that is present, and where possible encourage the reduction of those risks.

6.9.11 I consider that the original s32 evaluation continues to apply as this change is minor in nature. The changes proposed do not change the intent of the provision.

6.10 CL Chapter – Rules

6.10.1 The following table sets out the submission points covered in this section of the report (which may be individually or more broadly discussed). The decision requested in relation to each point is provided in full in **Appendix 2**:

SUBMITTER NAME	SUBMISSION POINT NUMBER(S)
Forest and Bird	156.84
Hort NZ	245.50

Submissions

6.10.2 Two submissions sought amendments while three submissions sought the retention of no rules and the rule note.

6.10.3 Forest and Bird [156.84] considers the chapter requires a rule or standard in addition to the NESCS to ensure surrounding environmental health / indigenous biodiversity is protected.

6.10.4 Hort NZ [245.50] considers that the plan should make it clear that the NESCS does not apply to production land if it continues to be used for production purposes and that it is only when a change of land use occurs that the NESCS provisions apply to production land. They seek the following amendment to the notes section:

Note: *There are no rules contained in this chapter. Reference should instead be made to the rules contained in the Resource Management (National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health) Regulations 2011.*

The NES-CS does not apply to primary production land where the land continues to be used for production purposes. Only when the land use changes will the NES-CS apply.

Analysis

6.10.5 Regarding the Forest and Bird [156.84] submission, I recommend that this is rejected for the same reasons expressed above in response [156.80] to their suggested amendment to CL-O1.

- 6.10.6 Regarding the Hort NZ [245.50] submission, I do not consider this addition is necessary as the note already refers the reader to the NESCS and the provisions of the NESCS specify where they apply and do not apply. I therefore recommend that this submission is rejected.

Conclusions and Recommendations

- 6.10.7 I recommend that the submissions from Forest and Bird [156.82] and Hort NZ [245.50] are **rejected**.

- 6.10.8 No changes are recommended to the provisions.

6.11 Hazardous Substances and SCHED 2 - Major Hazardous Facilities

- 6.11.1 I have addressed the submissions in the following order: Definitions; General; Introduction; Objectives; Policies; Rules; Planning Maps / Overlays; SCHED 2 - Schedule of Major Hazard Facilities.

6.12 HS Chapter – Definition of “Hazardous Facility”

- 6.12.1 The following table sets out the submission points covered in this section of the report (which may be individually or more broadly discussed). The decision requested in relation to each point is provided in full in **Appendix 2**:

SUBMITTER NAME	SUBMISSION POINT NUMBER(S)
TDC	42.5
Helicopters Sth Canterbury	53.11
NZAAA	132.10
Hort NZ	245.9
FENZ	131.2
EnviroNZ	162.3
Fonterra	165.13

Submissions

- 6.12.2 Seven submissions sought amendments to this definition while four submissions were received in support.

- 6.12.3 TDC [42.5] states that in the definition of “Hazardous Facility”, there is an incomplete sentence that needs to be corrected. They seek the definition is amended as follows:

...

3. the incidental storage and use of agrichemicals, fertilisers [...]. for land based primary production activities which are not located in a ~~D~~drinking ~~W~~water Protection Overlay

- 6.12.4 Helicopters Sth Canterbury [53.11], the NZAAA [132.10] and Hort NZ [245.9] consider that the mixing and application of hazardous substances for pest control should not be limited to ‘the site’, as mixing may occur at a mixing point, but application is on land other than the

site. They note that land based primary production is not defined in the Plan, but ‘primary production’ is so clause 3 should refer to ‘primary production’ and they seek to delete “which are not located in a drinking water”. They seek the following amendments, with Hort NZ in addition seeking proposed clause 9:

means a facility or activity that involves the use, storage or disposal of any hazardous substance, but excludes:

[...]

3. *the incidental storage and use of agrichemicals, fertilisers and fuel for ~~land-based~~ primary production activities and the incidental storage of agrichemicals, fertilisers and fuel for land based primary production activities ~~which are not located in a drinking water~~;*

[...]

8. *mixing and application of hazardous substances solely for the purpose of controlling plant and animal pests ~~on-site~~.*

9. agrichemicals used, stored, and disposed of in accordance with NZS8409:2021 Management of Agrichemicals.

- 6.12.5 FENZ [131.2] supports the definition of “Hazardous Facility”, but considers that fire stations and associated firefighting activities involve the use and storage of hazardous substances should be excluded from this definition. The submitter is required to store large quantities of hazardous substances, including fire retardant foam and fuel. They seek to amend the definition as follows:

means a facility or activity that involves the use, storage or disposal of any hazardous substance, but excludes:

[...]

9. Emergency Services Facilities and emergency management activities.

- 6.12.6 EnviroNZ [162.3] considers that waste transfer and disposal facilities should be excluded from the “Hazardous Facility” definition. They note that waste transfer stations and landfill facilities receive hazardous materials in incidental amounts if found amongst general household rubbish, but the waste acceptance criteria of transfer stations and landfills does not allow hazardous substances. They consider that given the minor amounts of hazardous substances received which, if found, are stored in a secure bunded location on site, the exclusion of waste transfer stations and disposal facilities can be accommodated under the definition. They seek to amend the definition as follows:

means a facility or activity that involves the use, storage or disposal of any hazardous substance, but excludes:

[...]

8. *mixing and application of hazardous substances solely for the purpose of controlling plant and animal pests on site.*

9. waste transfer stations and disposal facilities.

- 6.12.7 Fonterra [165.13] seeks to delete the definition of “Hazardous Facility” as the provisions relating to ‘hazardous facilities’ should be deleted.

Analysis

- 6.12.8 Regarding the TDC [42.5] submission, I agree that the omission is clearly a mistake and needs rectifying. I therefore recommend that the submission is accepted.
- 6.12.9 Regarding the Helicopters Sth. Canterbury [53.11], the NZAAA [132.10] and Hort NZ [245.9] submissions, I do not support deleting “land based” as this avoids the exclusion being applied to activities on the surface of water as primary production includes aquaculture. I do not support the deletion of “which are not located in a drinking water” as no reason is provided for its deletion and I note the Council [42.5] has submitted to fix this by adding a reference to “protection overlay”. The reference to “onsite” in the clause 8 exclusion enables onsite mixing for plant and pest control onsite but would ensure that a facility mixing chemicals for use offsite is captured by the definition. I consider this is appropriate as a facility regularly mixing large quantities of chemicals for use off site is a potentially hazardous facility. Regarding aerial operations, I consider that informal mixing points and off-site application would not make these areas “hazardous facilities”. Finally, I do not agree with adding the additional clause 9 exclusion for agrichemicals as these are already covered in clause 3 and primary production includes horticulture. I therefore recommend these submissions are rejected.
- 6.12.10 Regarding the FENZ [131.2] submission, I accept that fire stations and associated firefighting activities typically involve the use and storage of hazardous substances and that they should be excluded from this definition given the controlled nature of the activity, the quantities involved and existing HSNO and HSWA regulations. I therefore recommend that this submission is accepted.
- 6.12.11 Regarding the EnviroNZ [162.3] submission, I note that the RedRuth facility sometimes has hazardous substances disposed of as part of general rubbish, but that the waste acceptance criteria of transfer stations and landfills does not allow hazardous substances. Despite the acceptance criteria, in my opinion it would be appropriate for such a facility to be included in the definition of hazardous facilities as HS-R1 would mean that such a facility would not be able to locate in a Drinking Water Protection Zone and would need to manage natural hazards (based on the recommended amendments I have proposed to HS-P4 and HS-R1), both of which I consider reasonable for a waste facility. In addition, I note that the landfill is designated and as such, activities undertaken in accordance with the designation will not be managed by the rules in the District Plan (it is only activities outside of the designation area or purpose that will be managed). On balance, I recommend that this submission is rejected.

6.12.12 Regarding the Fonterra [165.13] submission, for the reasons set out for Fonterra [165.53] in relation to the introduction, I consider that it is acceptable for a district plan to address the gaps in HSNO and HSWA. I therefore recommend that this submission is rejected.

Conclusions and Recommendations

6.12.13 I recommend that the submission from the TDC [42.5] and FENZ [131.2] are **accepted**.

6.12.14 I recommend that the submissions from Helicopters Sth. Canterbury [53.11], the NZAAA [132.10], Hort NZ [245.9], EnvironZ [162.3] and Fonterra [165.13] are **rejected**.

6.12.15 Because of the minor changes I am recommending to the definition, I recommend the submissions in support of the definition are **accepted in part** as set out in **Appendix 2**.

6.12.16 Amend the definition of “Hazardous Facilities” as follows:

means a facility or activity that involves the use, storage or disposal of any hazardous substance, but excludes:

[...]

3. the incidental storage and use of agrichemicals, fertilisers [...]. for land based primary production activities which are not located in a Drinking Water Protection Overlay;

...

9. emergency services facilities and emergency management activities.

6.12.17 I consider that the original s32 evaluation continues to apply as these changes are minor in nature. The changes proposed do not change the intent of the definition.

6.13 HS Chapter – Definition of “Unacceptable Risk”

6.13.1 The following table sets out the submission points covered in this section of the report (which may be individually or more broadly discussed). The decision requested in relation to each point is provided in full in **Appendix 2**:

SUBMITTER NAME	SUBMISSION POINT NUMBER(S)
Bruce Speirs	66.9
BP Oil, et al	196.14

Submissions

6.13.2 Two submissions opposed this definition.

6.13.3 Bruce Speirs [66.9] considers the terminology can be improved and recommends the definition of “Unacceptable Risk”, is amended as follows:

Change '1 x 10⁻⁶' to read: '1 x 10⁻⁶', or '1:1,000,000', or just leave it as 'one in a million'.

- 6.13.4 BP Oil, et al [196.14] generally supports the definition as it is assumed it was from the New South Wales Hazardous Industry Planning Advisory Paper No 4 (HIPAP4). They state that if applied solely in the context of managing the relationship between major hazardous facilities (MHF) and sensitive activities (as is the assumed intention of the wording in the definition), there is potential for the definition and outcomes sought, to be appropriate. However, they question the necessity of having both the proposed definition and its use throughout the chapter, especially the rules. They seek to amend the definition as follows:

Unacceptable Risk ~~[in relation to Hazardous Substances]~~

In relation to major hazard facilities, means exposure of sensitive activities (including residential dwelling) to an individual fatality risk level exceeding 1×10^{-6} per year (one in a million).

Analysis

- 6.13.5 Regarding the submission from Bruce Speirs [66.9], I agree that the wording could be '1 x 10⁶'. This is simply a formatting error. I recommend this submission is accepted.
- 6.13.6 Regarding the BP Oil, et al [196.14] submission, I note that I am recommending later in this report to remove the risk target from the introduction and HS-P1 and relying on the definition for this detail, which is consistent with the submitter's concerns. I consider that the requested change to the definition title is a drafting style matter and note that it is replicated in other definitions (e.g. for "Fully Shielded" and "Hard Engineering"). I consider that a consistent drafting style is preferred. I therefore recommend that this submission is rejected.

Conclusions and Recommendations

- 6.13.7 I recommend that the submission from Bruce Speirs [66.9] is **accepted**
- 6.13.8 I recommend that the submission from BP Oil, et al [196.14] is **rejected**.
- 6.13.9 Amend the definition of "Unacceptable Risk" as follows:
- In relation to major hazard facilities, means exposure of sensitive activities (including residential dwelling) to an individual fatality risk level exceeding 1×10^{-6} per year (one in a million).*
- 6.13.10 I consider that the original s32 evaluation continues to apply as this change is minor in nature.

6.14 HS Chapter – General

- 6.14.1 The following table sets out the submission points covered in this section of the report (which may be individually or more broadly discussed). The decision requested in relation to each point is provided in full in **Appendix 2**:

SUBMITTER NAME	SUBMISSION POINT NUMBER(S)
Timaru Oil Services	155.1

Submissions

6.14.2 One submission sought amendments to the chapter while two submissions were in support.

6.14.3 Timaru Oil Services [155.1] comments on the proposed risk target in HS-O1 and seeks the following for the chapter:

- A clear reference to appropriate standards (e.g. HIPAP 4);
- A qualified risk target that is aligned with international norms. For example, HIPAP 4 (NSW) uses a target of 50 E-6 for industrial use and lesser targets for sensitive areas;
- Clear responsibilities for performing quantified risk assessments for adjacent MHF and non-MHF sites. Non-MHF sites may still be hazardous and have risk, but not have any technical expertise to perform risk assessments or interpret them; and
- Consideration of the approach adopted by WorkSafe Victoria which is simpler to administer.

Analysis

6.14.4 I understand that the New South Wales HIPAP 4 informed the risk standard. In my opinion it is not necessary to specify in the chapter provisions the risk standards or risk targets to be applied as the risk standard is already included in the definition of “Unacceptable Risk” and these will be applied on the basis of accepted industry practice as required through assessments on resource consent applications.³ I note that HS-P1(1) specifies the risk target for individual human fatality (not greater than 1×10^{-6} per year (one in a million)) and consider this detail is unnecessary at the policy level (again noting this is already in the “Unacceptable Risk” definition) and that this can simply be replaced with a reference to the defined ‘unacceptable risk’. This target is also included in the introduction, along with setback requirements and a statement on QRAs which would not normally be included in an introduction (they would normally be in the policies or rules). Rather than amending the provisions to include a risk target that is aligned with international norms, I recommend that this risk target is removed so that it is only specific in the definition. I also recommend that the clause on sensitive activities is deleted as this detail is better located within the provisions (see also Fonterra [165.53] assessed later in this report). I therefore recommend that the submission is accepted in part.

Conclusions and Recommendations

6.14.5 I recommend that the submissions from Timaru Oil Services [155.1] is **accepted in part**.

³ For example, HS-R3 requires Quantitative Risk Assessments to be prepared by a suitably qualified person.

6.14.6 As I am recommending changes as a result of this submission, I recommend that the submissions in support of the chapter as set out in **Appendix 2** are **accepted in part**.

6.14.7 Amend HS-P1 New Major Hazard Facilities and additions to existing Major Hazard Facilities as follows:

Avoid unacceptable risks of new Major Hazard Facilities and additions to Major Hazard Facilities by:

1. using Quantitative Risk Assessments to ensure ~~there is no unacceptable risk~~ ~~the risk of an individual human fatality is not greater than 1 x 10⁻⁶ per year (one in a million), including cumulative effects;~~ and

2. ...

6.14.8 Amend the introduction as follows:

Proposals for new Major Hazard Facilities (and additions to Major Hazard Facilities), will require a Quantitative Risk Assessment to be provided which is prepared by a suitably qualified person. This assessment will help quantify the extent and nature of the risk. ~~Unacceptable risks to human health are defined as an individual human fatality not greater than 1 x 10⁻⁶ per year (one in a million). Where a Quantitative Risk Assessment has been prepared, sensitive activities are required to be located outside of the (1 x 10⁻⁶ per year) risk area, or if no such assessment exists, at least 250m away from the Major Hazard Facilities.~~

6.14.9 I consider that the original s32 evaluation continues to apply as this change is principally a structure change.

6.15 HS Chapter – Introduction

6.15.1 The following table sets out the submission points covered in this section of the report (which may be individually or more broadly discussed). The decision requested in relation to each point is provided in full in **Appendix 2**:

SUBMITTER NAME	SUBMISSION POINT NUMBER(S)
Fonterra	165.53

Submissions

6.15.2 One submission sought changes to the introduction and one submission supported the introduction.⁴

6.15.3 Fonterra [165.53] opposes the purpose of this chapter to manage “Hazardous Facilities” as they consider that the use, storage, disposal and transportation of hazardous substances is

⁴ Alliance Group [173.32] was allocated to the chapter introduction but is better assessed under HS-R4 and SCHED2 - Schedule of Major Hazard Facilities.

controlled by other legislation, including in areas subject to natural hazards. They seek the following changes:

[...]

Accordingly, the District Plan addresses the following resource management matters concerning hazardous substances:

1. potential adverse effects on sensitive activities and sensitive environments;
2. reverse sensitivity effects caused by sensitive activities locating too close to major hazardous facilities;
3. ~~the risks to hazardous facilities from natural hazards and consequential risks to the environment;~~
4. ~~cumulative effects of major hazard facilities locating too close each other.~~

The adverse effects associated with these resource management issues generally have a low probability of occurring but a high potential impact if they do occur. As such and as the need to comply with the HSNO and HSW Acts significantly reduces most risks associated with hazardous substances, this chapter focuses on ~~higher risk facilities, being hazardous facilities and~~ major hazard facilities. Major Hazard Facilities are identified through the Health and Safety at Work (Major Hazard Facilities) Regulations 2016.

~~Proposals for new Major Hazard Facilities (and additions to Major Hazard Facilities), will require a Quantitative Risk Assessment to be provided which is prepared by a suitably qualified person. This assessment will help quantify the extent and nature of the risk. Unacceptable risks to human health are defined as an individual human fatality not greater than 1×10^{-6} per year (one in a million). Where a Quantitative Risk Assessment has been prepared, sensitive activities are required to be located outside of the (1×10^{-6} per year) risk area, or if no such assessment exists, at least 250m away from the Major Hazard Facilities.~~

Analysis

6.15.4 The s32 for the Hazardous Substances chapter acknowledges that HSNO aims to protect the environment and the health and safety of people from the adverse effects of hazardous substances while HSWA aims to protect people against harm to their health, safety and welfare caused by risks arising from work.⁵ It also acknowledges that Sections 30 and 31 of the RMA were amended in 2017 to remove the control of hazardous substances as an explicit function of councils. This means councils no longer have a specific obligation to regulate the use of hazardous substances in RMA plans.

6.15.5 However, the s32 also states that there is scope within the RMA to address the following matters relating to the management of hazardous substances and facilities to ensure any

⁵ Section 32 Report Hazardous Substances Chapter (May 2022), Section 1.1.

gaps between legislative frameworks are covered and any adverse environmental effects are comprehensively managed in accordance with Part II of the RMA:⁶

- Substances not included in HSNO;
- Facilities in relation to incompatible and sensitive land uses;
- Facilities in relation to sensitive natural environment/ecosystems;
- Reverse sensitivity issues in relation to risk;
- Cumulative risks;
- Interaction with identified natural hazards.

6.15.6 I note that the s32 also assessed best practice and other council approaches which included coverage for hazardous substances.⁷

6.15.7 In my opinion it is acceptable for a district plan to address the gaps in HSNO and HSWA. Regarding the specific changes requested, I consider it is appropriate that the chapter covers the risks to hazardous facilities and MHF from such things as natural hazards (these are not adequately covered under HSNO and HSWA) and focusses on higher risk facilities, including hazardous facilities. I also consider it appropriate that a QRA is required for new MHF (and additions to MHF). However, I consider the detail on what is unacceptable risk and the text on sensitive activities should be deleted as this detail is better located within the definition and provisions (rather than the introduction).⁸ Accordingly, I recommend that this submission is accepted in part.

Conclusions and Recommendations

6.15.8 I recommend that the submissions from Fonterra [165.53] is **accepted in part**.

6.15.9 As I am recommending changes as a result of other submissions, I recommend that the submission in support of the introduction as set out in **Appendix 2** is **accepted in part**.

6.15.10 No changes are recommended from this submission (however see the recommended change to the introduction as a result of Timaru Oil Services [155.1]).

6.16 HS Chapter Objective HS-O1 Hazardous substances, use, storage and disposal

6.16.1 The following table sets out the submission points covered in this section of the report (which may be individually or more broadly discussed). The decision requested in relation to each point is provided in full in **Appendix 2**:

⁶ Ibid.

⁷ Section 32 Report Hazardous Substances Chapter (May 2022), Section 1.4.3.

⁸ I have also recommended this is deleted in response to Timaru Oil Services [155.1].

SUBMITTER NAME	SUBMISSION POINT NUMBER(S)
Fonterra	165.54
BP Oil, et al	196.58

Submissions

- 6.16.2 There were two submissions seeking amendments to HS-O1, while three were in support.
- 6.16.3 Fonterra [165.54] sought to delete HS-O1 as they consider that the use, storage, disposal and transportation of hazardous substances is controlled by other legislation.
- 6.16.4 BP Oil, et al [196.58] consider that there are inconsistencies between the chapter and the objective itself with respect to transportation as the objective is aimed at MHF and 'unacceptable risks' is only applicable to MHF. They seek the following amendments:
- The ~~risks associated with~~ use, storage ~~and~~ disposal ~~and transportation~~ of hazardous substances ~~are managed and, in relation to MHF, occurs where~~ unacceptable risks ~~to the environment and human health~~ are avoided.*

Analysis

- 6.16.5 Regarding the Fonterra [165.54] submission, for the reasons set out above for Fonterra [165.53] in relation to the introduction, I consider that it is acceptable for a district plan to address the gaps in HSNO and HSWA. I therefore recommend that this submission is rejected.
- 6.16.6 Regarding the BP Oil, et al [196.58] submission, I agree that the policies and rules are focussed on hazardous facilities and MHF and not transportation per se. I consider the proposed wording is more targeted, clearer and more consistent with the policies and rules which manage hazardous substances in relation to hazardous facilities (e.g. HS-R1) and seek to avoid unacceptable risk from MHF. However, I prefer maintaining the references to the environment and human health as that is the purpose of managing MHF. I recommend that this submission is accepted in part, noting that MHF should be written in full.

Conclusions and Recommendations

- 6.16.7 I recommend that the submission from BP Oil, et al [196.58] is **accepted in part**.
- 6.16.8 I recommend that the submission from Fonterra [165.54] is **rejected**.
- 6.16.9 Given the changes I am recommending, I recommend that the submissions in support of HS-O1 as set out in **Appendix 2** are **accepted in part**.
- 6.16.10 Amend HS-O1 as follows:
- The risks associated with the use, storage, and disposal ~~and transportation~~ of hazardous substances are managed and, in relation to Major Hazardous Facilities, ~~occurs where~~ unacceptable risks to the environment and human health are avoided.

6.16.11 I consider that the original s32 evaluation continues to apply. I consider that the recommended changes are not significant and that they simply provide greater clarity and are more aligned with the policies and rules. I consider this better achieves the purpose of the RMA.

6.17 HS Chapter - Objective HS-O2 Sensitive Activities

6.17.1 The following table sets out the submission points covered in this section of the report (which may be individually or more broadly discussed). The decision requested in relation to each point is provided in full in **Appendix 2**:

SUBMITTER NAME	SUBMISSION POINT NUMBER(S)
Silver Fern Farms	172.37
Alliance Group Limited	173.34
BP Oil, et al	196.59

Submissions

6.17.2 Three submissions sought amendments to HS-O2, while one submission was in support.

6.17.3 Silver Fern Farms [172.37] and Alliance Group Limited [173.34] seek an amendment to ensure that an avoidance consideration is added to this objective, given the significant resource management issues that can arise as a result of reverse sensitivity effects. They seek the following amendments:

New sensitive activities are located to avoid, or where avoidance is not possible, are designed to mitigate, minimise reserve sensitivity effects on major hazard facilities and to avoid unacceptable risks to the sensitive activity.

6.17.4 BP Oil, et al [196.59] seeks to ensure that unacceptable risks associated with the intensification of any existing sensitive activities (consistent with the definition of reverse sensitivity) are also addressed. They seek the following amendments:

New sensitive activities and increased scale or intensity of existing sensitive activities are designed and located to minimize ~~reserve reverse~~ sensitivity effects on major hazard facilities and to avoid unacceptable risks to the sensitive activity.

Analysis

6.17.5 Regarding the Silver Fern Farms [172.37] and Alliance Group Limited [173.34] submissions, I consider that 'minimise' is acceptable as the objective already refers to avoiding unacceptable risk and it is risk to life that is the key consideration for these activities as other adverse effects such as noise and odour, etc are already controlled by other district and regional plan provisions. I therefore recommend that these submissions are rejected.

6.17.6 Regarding the BP Oil, et al [196.59] submission, I note that all the MHF listed in SCHED2 are located within the Timaru Port, within an industrial zone where the activity status of

sensitive activities is non-complying (NC). However, I understand that there is a proposed mixed-use zone bordering Turnbull Street that is within 250m of an MHF and that sensitive activities (e.g. household units) can establish as permitted activities within the mixed-use zone. While I am not aware that there are any existing sensitive activities within 250m (HS-R3) of these MHF, there is the potential for these to establish and expand over time. While I consider that the risk is low, this is a possibility. I therefore recommend also referring to the expansion of sensitive activities in HS-O2.

Conclusions and Recommendations

- 6.17.7 I recommend that the submission from BP Oil, et al [196.59] is **accepted in part**.
- 6.17.8 I recommend that the submissions from Silver Fern Farms [172.37] and Alliance Group Limited [173.34] are **rejected**.
- 6.17.9 Given the changes I am recommending, I recommend that the submissions in support of HS-O2 as set out in **Appendix 2** are **accepted in part**.
- 6.17.10 I recommend that HS-O2 is amended as follows:
- New or expanded sensitive activities are designed and located to minimise ~~reverse~~ reverse sensitivity effects on major hazard facilities and to avoid unacceptable risks to the sensitive activity.
- 6.17.11 I consider that the original s32 evaluation continues to apply as the provision still focuses on risk, and expansions can cause a significant change in risk profile (similar to a wholly new sensitive activity being established). I consider this change provides greater clarity and better achieves the purpose of the RMA.

6.18 HS Chapter - Policy HS-P1 New Major Hazard Facilities and additions to existing Major Hazard Facilities

- 6.18.1 The following table sets out the submission points covered in this section of the report (which may be individually or more broadly discussed). The decision requested in relation to each point is provided in full in **Appendix 2**:

SUBMITTER NAME	SUBMISSION POINT NUMBER(S)
Forest and Bird	156.90
Silver Fern Farms	172.38
Alliance Group	173.35
PrimePort	175.32
TDH	186.17
Ixom Operations	49.3
BP Oil, et al	196.60

Submissions

- 6.18.2 Seven submissions sought amendments to HS-P1, while one submission was in support.
- 6.18.3 Forest and Bird [156.90] considers the policy should only consider MHF in places where unacceptable risks to the environment, other than those sensitive environments are avoided. They seek the following amendments:
- Avoid unacceptable risks of new Major Hazard Facilities and additions to Major Hazard Facilities by:*
1. [...]
- [...]
5. Ensuring in areas, that are not sensitive environments or Natural Hazard Areas, suitable measures are undertaken to avoid, remedy or mitigate the risk of hazardous substances entering the environment.
- 6.18.4 Silver Fern Farms [172.38] and Alliance Group [173.35] question the need for a QRA for all additions or upgrades to MHF, particularly in cases where there is no change to the volume of hazardous substances proposed or where they are situated on site, noting that upgrades can improve the safety of these facilities. The submitters also note it is not clear where High Hazard Areas are located in the District so it is difficult to assess the impact of the proposed provisions on their operations. Silver Fern Farms also questions whether the unacceptable risk criteria of 1×10^{-6} per year is appropriate. They seek amendments to only require a QRA for all additions to MHF where there is likely to be a change in risk as a result of the additions, and clarification of what is a High Hazard Area to allow the submitter to appropriately assess the impact of provisions related to this on its operation.
- 6.18.5 PrimePort [175.32] and TDH [186.17] state that under clause 3 new or additional MHF could potentially not establish in the Port Zone and that this is impractical and onerous given the operational requirement for those facilities to locate at the Port. They support clause 4 which provides for MHF to locate in natural hazard areas where measures are taken to minimise adverse effects as this is considered a practicable requirement.
- 6.18.6 Ixom Operations [49.3] considers that in relation to HS-P1.4(a) the controls imposed need to be reasonable and practical. For example, tsunami defences would be very costly and the word 'minimise' makes the policy unclear. They seek the following amendments:
- [...]
- 4. ensuring, in Natural Hazard Areas not defined as a High Hazard Area, suitable measures are undertaken to:*
- a. avoid or minimise adverse effects from natural hazards on hazardous facilities and Major Hazard Facilities (excluding tsunami events); and*

b. minimise the risk of hazardous substances entering the environment in the event of a natural hazard event (excluding tsunami events).

6.18.7 BP Oil, et al [196.60] have concerns about the practical implications of this policy. They question the use of the word “additions” without qualification and state that clause 1 does not clearly reflect the intent to avoid unacceptable risks. They also consider that “effects” already includes “cumulative effects”, and that as all MHF are already located within sensitive environments clause 3 should only apply to new facilities. Finally, they consider that the avoid or mitigate approach in clause 4 is contrary to the principal policy intent for new facilities and that this could cause difficulty in a policy assessment. They seek the following amendments:

Avoid unacceptable risks of new Major Hazard Facilities and additions to Major Hazard Facilities by:

1. using Quantitative Risk Assessments to ensure there is no unacceptable risk to sensitive activities the risk of an individual human fatality is not greater than 1×10^{-6} per year (one in a million), including cumulative effects; and

~~2. ensuring Major Hazard Facilities do not cause unacceptable cumulative effects by locating too close to each other; and~~

3. locating new Major Hazard Facilities outside of sensitive environments, except for Natural Hazard Areas (not defined as a High Hazard Area); and

~~4. ensuring, in Natural Hazard Areas (not defined as a High Hazard Area), suitable measures are to undertaken to:~~

~~a. — avoid or minimise adverse effects from natural hazards on hazardous facilities and Major Hazard Facilities; and~~

~~b. — minimise the risk of hazardous substances entering the environment in the event of a natural hazard event.~~

Analysis

6.18.8 Regarding the Forest and Bird [156.90] submission, I consider that non-district plan provisions are in place to manage risks of hazardous substances entering a non-sensitive environment (e.g. HSWA and HSNO). Accordingly, I recommend that this submission is rejected.

6.18.9 Regarding the Silver Fern Farms [172.38] and Alliance Group Limited [173.35] submissions seeking clarification of what is a high hazard area, as set out in the Natural Hazards chapter, a flood assessment certificate is required to identify where most high hazard areas are located. I consider this approach is appropriate to enable the most up-to-date information to be used to determine these areas. Regarding additions to MHF, I agree that a QRA may be onerous for all additions to MHF, and in my opinion it is more efficient to require a QRA where there is likely to be a change in risk as a result of the additions. In response to the submission on HS-R2 I have recommended changes to that rule to enable additions /

- upgrades where there is no change in risk. I consider that the application of HS-R2 clarifies when a QRA is required and that no changes are required to HS-P1. Accordingly, I recommend that these submissions are rejected.
- 6.18.10 Regarding the PrimePort [175.32] and TDH [186.17] submissions in relation to the Port, I agree that it is impractical and onerous that new or additional MHF could potentially not establish in the Port Zone given the operational requirement for those facilities to locate at the Port. However, rather than exclude the PORTZ as per the requested relief, in response to BP Oil, et al [196.64] addressed later in this report under HS-P4, I have recommended replacing the definition of “Sensitive Environments” with a definition of “Sensitive Locations” to capture a reduced set of sensitive areas. I consider that this definition should exclude the PORTZ for the reasons provided by the submitters. Accordingly, I recommend that these submissions are accepted in part.
- 6.18.11 Regarding the Ixom Operations [49.3] submission, I consider that it is appropriate to consider tsunami risk as part of assessing the risk of new MHF as tsunami damage can be significant. I accept that there is some uncertainty over the term ‘minimise’ however I consider it is appropriate to seek to minimise risk and consider this can be assessed through a consent pathway. I therefore recommend that this submission is rejected.
- 6.18.12 Regarding the BP Oil, et al [196.60] submission, in response to a submission from Timaru Oil Services [155.1] considered under ‘General’, I have recommended replacing the reference to individual human fatality risk with the defined term ‘unacceptable risk’. I consider that the reference to ‘additions’ without qualifiers leaves some uncertainty, but note my response to Silver Fern Farms [172.38] and Alliance Group Limited [173.35] regarding additions and that these are now covered by an amended HS-P2 and HS-R2 which provides greater clarity on permitted upgrades. I agree that clause 3 should be amended to refer to ‘new’ MHF. Regarding cumulative effects, I agree that ‘effects’ already include ‘cumulative effects’ but I consider it appropriate to include this clause to clarify that these effects are relevant for MHF. Regarding the requested deletion of clause 4, I consider that this clause provides value regarding how to respond to natural hazard risk. I consider it is important to consider natural hazards as these can damage MHF which could lead to environmental and human health risk. I consider that ‘avoid or minimise’ provides flexibility in how operators address risk and I note that other MHF operators have submitted to retain these clauses. Overall, I recommend that this submission is accepted in part, noting the change I recommended to HS-P1 clause 1 in response to Timaru Oil Services [155.1].
- 6.18.13 In addition to the above assessment, I note that while HS-P1 is about new MHF and additions to MHF, whereas clause 4(a) erroneously refers to ‘hazardous facilities’, which is the subject of HS-P4. I therefore recommend that this reference is deleted under RMA Schedule 1, clause 16(2).

Conclusions and Recommendations

6.18.14 I recommend that the submissions from PrimePort [175.32], TDH [186.17] and BP Oil, et al [196.60] are **accepted in part**.

6.18.15 I recommend that the submission from Forest and Bird [156.90], Silver Fern Farms [172.38], Alliance Group Limited [173.35] and Ixom Operations [49.3] are **rejected**.

6.18.16 Noting the changes I am recommending to HS-P1 below, I recommend that the submissions in support are **accepted in part** as set out in **Appendix 2**.

6.18.17 Amend HS-P1 as follows (noting the further changes I am recommending to HS-P1 in response to submissions on HS-P4 later in this report):

[...]

3. locating new Major Hazard Facilities outside of sensitive environments, except for Natural Hazard Areas (not defined as a High Hazard Area); and

4. ensuring, in Natural Hazard Areas (not defined as a High Hazard Area), suitable measures are to undertaken to:

a. avoid or minimise adverse effects from natural hazards on ~~hazardous facilities and~~ Major Hazard Facilities; and [...]

6.18.18 I consider that the original s32 evaluation generally continues to apply as the changes are minor in nature.

6.19 HS Chapter - Policy HS-P2 Repair and maintenance of existing Major Hazard Facilities

6.19.1 The following table sets out the submission points covered in this section of the report (which may be individually or more broadly discussed). The decision requested in relation to each point is provided in full in **Appendix 2**:

SUBMITTER NAME	SUBMISSION POINT NUMBER(S)
Silver Fern Farms	172.39
Alliance Group Limited	173.36
Southern Proteins	140.10
Ixom Operations	49.4

Submissions

6.19.2 Four submissions sought amendments to HS-P2, while three submissions were in support.

6.19.3 Silver Fern Farms [172.39] and Alliance Group Limited [173.36] agree with that part of the policy that supports the repair and maintenance of MHF, but consider that upgrades should also be supported, given upgrades can improve the safety of these facilities. They also

consider this policy should apply to hazardous facilities. They seek the following amendments:

HS-P2 Repair and maintenance of existing Major Hazard Facilities

Enable the upgrade, repair and maintenance of existing Major Hazard Facilities and hazardous facilities.

- 6.19.4 Southern Proteins [140.10] also seeks to provide for expansion of existing facilities in HS-P2. They seek the following amendments:

HS-P2 Repair and maintenance of existing Major Hazard Facilities

Enable the repair, ~~and~~ maintenance and expansion of existing Major Hazard Facilities.

- 6.19.5 Ixom Operations [49.4] seeks to delete this policy as it does not provide any benefit or direction. They state that the existing MHF regulations require MHF's to be repaired and maintained in order to operate.

Analysis

- 6.19.6 Regarding the Silver Fern Farms [172.39], Alliance Group Limited [173.36] and Southern Proteins [140.10] submissions, in my opinion there is a large spectrum of what additions / alterations / upgrades could entail, however I agree that it would be appropriate to permit additions or upgrades which do not result in a change in the risk profile, for example, the expansion of associated offices. In this regard, I note my related recommendation to HS-R2 to permit upgrades, additions and alterations (addressed later in this report under HS-R2). However, whilst I support providing for additions to MHF, these are already covered by HS-P1 and therefore changes are not required to HS-P2 to provide for this. I therefore recommend that these submissions are rejected.
- 6.19.7 Regarding adding a reference to hazardous facilities, I note that there are no rules that restrict the repair, maintenance, upgrade or establishment of new hazardous facilities (as opposed to MHF) and therefore I do not consider this addition is necessary. I also note that hazardous facilities are already covered by HS-P4. I therefore recommend these submissions are rejected.
- 6.19.8 Regarding the Ixom Operations [49.4] submission, I consider that this policy provides support for HS-R2 and could be used to inform assessments on the significance of additions to MHF under HS-R4. I therefore recommend that this submission is rejected.

Conclusions and Recommendations

- 6.19.9 I recommend that the submissions from Silver Fern Farms [172.39], Alliance Group Limited [173.36], Southern Proteins [140.10] and Ixom Operations [49.4] are **rejected**.
- 6.19.10 No changes to HS-P2 are recommended.

6.20 HS Chapter - Policy HS-P3 Sensitive activities in proximity to Major Hazard Facilities

6.20.1 The following table sets out the submission points covered in this section of the report (which may be individually or more broadly discussed). The decision requested in relation to each point is provided in full in **Appendix 2**:

SUBMITTER NAME	SUBMISSION POINT NUMBER(S)
Silver Fern Farms	172.40
Alliance Group Limited	173.37
BP Oil, et al	196.63

Submissions

6.20.2 Three submissions sought amendments to HS-P3.

6.20.3 Silver Fern Farms [172.40] and Alliance Group Limited [173.37] seek that ‘avoidance’ be added to this policy, given the significant resource management issues that can arise because of reverse sensitivity effects. They seek the following amendments:

*Require sensitive activities to be sufficiently separated from Major Hazard Facilities to **avoid or where avoidance is not possible, to** minimise reverse sensitivity effects on the Major Hazard Facility and to avoid unacceptable risks to the sensitive activity.*

6.20.4 BP Oil, et al [196.63] support HS-P3 but seek the following amendments to include existing sensitive activities:

*Require sensitive activities and **increased scale or intensity of existing sensitive activities** to be sufficiently separated from Major Hazard Facilities to minimise reverse sensitivity effects on the Major Hazard Facility and to avoid unacceptable risks to the sensitive activity.*

Analysis

6.20.5 Regarding the Silver Fern Farms [172.40] and Alliance Group Limited [173.37] submissions, whilst I understand that the issue of reverse sensitivity can be significant for some activities, I consider that restrictions placed on adjacent landowners need to be carefully considered as to their appropriateness. I note that MHF could be regionally significant infrastructure (RSI) if for example they are part of the Port of Timaru or are bulk fuel supply infrastructure, but that they also may not meet the RSI definition. As such, CRPS reverse sensitivity provisions such as Policy 5.3.2(1)(a)⁹ may or may not apply, depending on the MHF. If it does apply, this policy requires adverse effects to be avoided, remedied or mitigated where these would compromise or foreclose the existing RSI – it does not require an avoidance first approach as proposed by the submitters. If not RSI, there is also a general requirement to

⁹ As set out in the reverse sensitivity mapping report provided to the Panel.

avoid or mitigate conflict between incompatible activities as per CRPS Policy 5.3.2(2)(b). Again, this does not require an avoidance first approach.

- 6.20.6 I note that all the MHF are currently located within the PORTZ, which classifies residential activities as fully discretionary if ancillary to the Port or industrial activities, and non-complying if not, and other sensitive activities as fully discretionary.¹⁰ As such, the zone enables most sensitive activities to be considered on their merits. Given the policy framework and range of activities that could be an MHF, in my opinion the current approach in HS-P3 (to minimise reverse sensitivity) is appropriate and sufficient to support the continued operation of MHF. I therefore recommend that these submissions are rejected.
- 6.20.7 Regarding the BP Oil, et al [196.63] submission, while I have recommended including a reference to expanded sensitive activities in HS-O2 (in response to BP Oil, et al [196.59]), I do not consider this is necessary as HS-P3 is worded differently, with sensitive activities, whether they are new or expanded existing activities, needing to be separated from MHF. Accordingly, I recommend that this submission is rejected.

Conclusions and Recommendations

- 6.20.8 I recommend that the submissions from Silver Fern Farms [172.40], Alliance Group Limited [173.37] and BP Oil, et al [196.63] are **rejected**.
- 6.20.9 No changes are recommended to the provisions.

6.21 HS Chapter - Policy HS-P4 - Hazardous facilities (other than Major Hazard Facilities)

- 6.21.1 The following table sets out the submission points covered in this section of the report (which may be individually or more broadly discussed). The decision requested in relation to each point is provided in full in **Appendix 2**:

SUBMITTER NAME	SUBMISSION POINT NUMBER(S)
BP Oil, et al	196.64
Fonterra	165.55
PrimePort	175.34
TDH	186.19
Ixom Operations	49.5

Submissions

- 6.21.2 Five submissions sought amendments to HS-P4 while two submissions supported it.
- 6.21.3 BP Oil, et al [196.64] considers the use of the definition of “Sensitive Environment” is not appropriate as it extends to a range of matters not specific to hazardous substances. It

¹⁰ See PORTZ-R4 and PORTZ-R6.

considers the policy is unclear if applied to works within and extension of existing facilities and considers the relationship between the effects of hazardous facilities and sensitive environments would be better managed through provisions applicable to all activities affected by these specific areas or overlays and hazardous substance activities is better determined on a case-by-case basis. They seek to delete HS-P4.

6.21.4 Fonterra [165.55] seeks to delete HS-P4 as the use, storage, disposal and transportation of hazardous substances is controlled by other legislation.

6.21.5 PrimePort [175.34] and TDH [186.19] consider that clause 1 is problematic for hazardous facilities located within the Port Zone (the entirety of which is a sensitive environment due to its location within the CE). They seek the following amendments:

Enable hazardous facilities (other than Major Hazard Facilities), provided that:

*a. **other than the Port Zone**, the facility is located outside of a sensitive environment (except for a Flood Assessment Area); and*

b. The facility is located within a Flood Assessment Area where the flood hazard can be mitigated; and

*2. **Other than the Port zone**, Only allow hazardous facilities (other than Major Hazard Facilities) in sensitive environments where the risks to the sensitive environments can be avoided in the first instance, or where avoidance is not possible, minimised.*

6.21.6 Ixom Operations [49.5] state that sensitive environments include areas within 250m of a MHF and that many MHFs do not have a knock-on effect with other sites. They consider that a hazardous facility should be able to establish within 250m of an MHF relatively freely. They also state that as the whole Timaru Port area is within 250m of an MHF, establishment of a new hazardous facility may be adversely affected. They seek the following amendment:

1. Enable hazardous facilities (other than Major Hazard Facilities), provided that:

*a. The facility is located outside of a sensitive environment (except for a Flood Assessment Area **and within 250m of an MHF**); and [...]*

*2. Only allow hazardous facilities (other than Major Hazard Facilities) in sensitive environments (**except for within 250m of an MHF**) where the risks to the sensitive environment can be avoided in the first instance, or where avoidance is not possible, minimised.*

Analysis

6.21.7 Regarding the BP Oil, et al [196.64] submission, I note that “Sensitive Environments” is referenced in a number of provisions across the PDP – it is not specific to hazardous substances. I agree that the reference to “Sensitive Environments” is very broad. It is not clear to me what the impact of non-MHF, in addition to the buildings and activities generally, would be on such matters as a heritage item, an ONL or ONF, a high natural character area and the CE generally. Accordingly, I agree that the “Sensitive Environments” restrictions can

be narrowed. Of the listed matters in the definition of “Sensitive Environments” I consider the following to be of most relevance (in relation to causing adverse effects and the sensitivity of the receiving environment):

- Natural hazards (excluding liquefaction which can be managed via the Building Act);
- Drinking Water Protection Areas;
- The area within 100m from the edge of a riparian margin and wetland;
- The area within 250m of an MHF.

6.21.8 In my opinion Drinking Water Protection Areas and waterbodies could be sensitive to these facilities (where the hazardous substances escape the facility) and therefore consider these areas should be retained in the provisions (noting the various spill protection requirements under HSNO and HSWA). I also consider that natural hazards should be considered, along with the presence of MHF (in relation to cumulative effects). With the exception of the listed matters above, in my opinion the relationship between the effects of hazardous facilities and sensitive environments are better managed through the zone and overlay provisions as part of managing buildings, structures and activities generally. I have reviewed two recently developed Canterbury district plans and note that these do not manage non-MHF hazardous substance storage and use in sensitive areas (other than flood management areas).¹¹

6.21.9 With regard to SASMs, noting that there are provisions under HSNO and HSWA to manage hazardous substances and my recommendation to cover natural hazards and areas within 100m of the edge of riparian margins and wetlands, on balance I consider it unlikely that SASMs outside of these areas will be adversely affected by these facilities (over and above the buildings and structures housing them which are already covered by the zone / overlay provisions (e.g. the SASM provisions) and general earthworks provisions) and accordingly I have not recommended their inclusion in my proposed definition of “Sensitive Locations”. However, I note that HS-R1 Matter of Discretion 5 refers to SASMs which I consider is appropriate to retain where these intersect with “Sensitive Locations”. I also note that HS-R4 makes new MHF fully discretionary activities and therefore the SASM chapter provisions will apply where relevant.

6.21.10 I therefore recommend that this submission is accepted in part and HS-P4 is amended along with HS-P1 and HS-R1 to limit the provisions applying to areas affected by natural hazards, Drinking Water Protection Areas, the area within 100m from the edge of a Riparian Margin and a Wetland and within 250m of an MHF. Because of the number of areas identified, rather than listing these separately within a Policy and the rules I prefer creating a new definition for “Sensitive Locations”.

¹¹ Proposed Waimakariri District Plan and Partially Operative Selwyn District Plan.

- 6.21.11 Regarding the Fonterra [165.55] submission, for the reasons set out above for Fonterra [165.53] in relation to the introduction, I consider that it is acceptable for a district plan to address the gaps in HSNO and HSWA. I therefore recommend that this submission is rejected.
- 6.21.12 Regarding the PrimePort [175.34] and TDH [186.19] submissions, I agree that HS-P4(1) is problematic for hazardous facilities located within the Port Zone which is a “Sensitive Environment”. In response to PrimePort [175.32] and TDH [186.17], I have recommended excluding the PORTZ from needing to comply with the ‘sensitive environment’ / ‘sensitive location’ restrictions given its operational and functional needs. This previous recommendation responds to the issues raised in PrimePort [175.34] and TDH [186.19] but in a different way to the requested relief. I therefore recommend accepting this submission in part. I note that the matter of natural hazards affecting the Port and the appropriate policy response will be covered in the Natural Hazards and Coastal Environment hearing scheduled for early in 2025. I consider that this matter may need to be revisited as a result of developing Port specific natural hazard provisions, which will also apply to the PORTZ.
- 6.21.13 Regarding the Ixom Operations [49.5] submission, I consider that whether there is a cumulative effect from locating hazardous facilities within 250m of a MHF will be influenced by the nature of the MHF and the nature of the issue that has caused the adverse effects. As this is uncertain, and in the absence of evidence on this matter, on balance I prefer retaining the 250m separation requirement. However, I note that in response to PrimePort [175.32] and TDH [186.17], I have recommended excluding the PORTZ from needing to comply with the ‘sensitive environment’ / ‘sensitive locations’ restrictions given its operational and functional needs. This 250m MHF separation requirement will therefore only apply to new facilities located outside of the PORTZ. I therefore recommend that this submission is accepted in part.

Conclusions and Recommendations

- 6.21.14 I recommend that the submissions from BP Oil, et al [196.64], PrimePort [175.34], TDH [186.19] and Ixom Operations [49.5] are **accepted in part**.
- 6.21.15 I recommend that the submission from Fonterra [165.55] is **rejected**.
- 6.21.16 Noting the changes I am recommending to HS-P4 below, I recommend that the submissions in support are **accepted in part** as set out in **Appendix 2**.
- 6.21.17 Amend HS-P4 as follows:
1. Enable hazardous facilities (other than Major Hazard Facilities), provided that:
 - a. The facility is located outside of a sensitive locations environment (~~except for a Flood Assessment Area~~); and

b. If the facility is located within a Flood Assessment Area, where the flood hazard can be mitigated; and

2.- Only allow hazardous facilities (other than Major Hazard Facilities) in sensitive locations environments where the risks to the sensitive environments can be avoided in the first instance, or where avoidance is not possible, minimised.

6.21.18 Amend HS-R1 as follows:

All zones

Activity status: Permitted

Where:

PER-1

The hazardous facility is located outside a sensitive locations environment (other than a Flood Assessment Area Overlay); and

[...]

6.21.19 Amend HS-P1 as follows:

Avoid unacceptable risks of new Major Hazard Facilities and additions to Major Hazard Facilities by:

[...]

3. locating new Major Hazard Facilities outside of sensitive locations environments, except for Natural Hazard Areas (not defined as a High Hazard Area); and

[...]

6.21.20 Insert the following new definition for “Sensitive Locations”

Sensitive Locations means:

1. Areas within the following Overlays identified on the Planning map, but excluding the PORTZ:

a. An Earthquake Fault Awareness Overlay; and

b. A High Hazard Area Overlay; and

c. The Sea Water Inundation Overlay; and

d. The Coastal Erosion Overlay; and

e. A Drinking Water Protection Area; and

f. The area within 250m of an MHF; and

2. the below areas:

a. The area within 100m from the edge of a Riparian Margin or wetland area; and

b. High Hazard Areas identified in a Flood Certificate issued under NH-S1.

Section 32AA analysis

6.21.21 I consider that the recommended changes are more efficient and effective than the notified provisions as whether a building houses hazardous substances is not relevant to that activity's impact on many sensitive environments (e.g. heritage items, ONLs, ONFs, HNC areas, the CE or SASMs), noting that the storage and use of hazardous substances is controlled by other legislation. I consider this change will reduce compliance costs for hazardous facilities and MHF, with little risk to environments that are sensitive to the hazardous substances and therefore consider the amended provisions better give effect to the RMA.

6.22 HS Chapter – New Policy

6.22.1 The following table sets out the submission points covered in this section of the report (which may be individually or more broadly discussed). The decision requested in relation to each point is provided in full in **Appendix 2**:

SUBMITTER NAME	SUBMISSION POINT NUMBER(S)
BP Oil, et al	196.61

Submissions

6.22.2 BP Oil, et al [196.61] proposes a new policy that seeks that suitable measures are undertaken to avoid or minimise effects or risks, by using good practice measures that would provide better direction than HS-P3. The new policy would be worded as follows:

Ensure, in Natural Hazard Areas (not defined as a High Hazard Area), good practice measures are to undertaken to:

a. avoid or minimise adverse effects from natural hazards on hazardous facilities and Major Hazard Facilities; and

b. minimise the risk of hazardous substances entering the environment in the event of a natural hazard event.

Analysis

6.22.3 This proposed new policy would replace the BP Oil, et al [196.60] proposed deleted text from HS-P1 dealing with natural hazards. This text is almost the same as the proposed deleted

text, except it refers to “good practice measures” as opposed to “suitable measures” in the chapeau. In terms of the need for a new policy, I consider the matter of natural hazards is better associated with the other matters covered under HS-P1. I consider this minor text change could be acceptable, however I note that other submitters such as PrimePort [175.32] supported the natural hazards provisions contained in HS-P1.4 and as such I prefer to keep the original wording. I therefore recommend that this submission is rejected.

Conclusions and Recommendations

6.22.4 I recommend that the submission from BP Oil, et al [196.61] is **rejected**.

6.22.5 No amendments are recommended.

6.23 HS Chapter – HS-R1 Use and/or storage of hazardous substances in a hazardous facility (excluding Major Hazard Facilities)

6.23.1 The following table sets out the submission points covered in this section of the report (which may be individually or more broadly discussed). The decision requested in relation to each point is provided in full in **Appendix 2**:

SUBMITTER NAME	SUBMISSION POINT NUMBER(S)
Fonterra	165.56
Road Metals	169.16
Fulton Hogan	170.17
PrimePort	175.35
TDH	186.20
Rangitata Dairies	44.6
Ixom Operations	49.6
BP Oil, et al	196.65

Submissions

6.23.2 Nine¹² submissions sought amendments to HS-R1, while four submissions supported it.

6.23.3 Fonterra [165.56] considers the use, storage, disposal and transportation of hazardous substances is controlled by other legislation and sought to delete this rule.

6.23.4 Road Metals [169.16] and Fulton Hogan [170.17] oppose HS-R1 as it refers to “Sensitive Environment” which has a broad definition, meaning hazardous substances will require consent under almost every overlay in the PDP, some of which are not relevant (e.g. visual amenity landscapes). They seek the provisions be specific regarding the definition of “Sensitive Environment” and restrict the matters to those relevant to effects from hazardous substances, or alternatively list the relevant matters in this rule and remove the definition.

¹² 132.13 was covered under [132.10] Definitions.

- 6.23.5 Similarly, PrimePort [175.35] and TDH [186.20] consider that PER-1 creates an unnecessary consent burden, as all new hazardous facilities would require resource consent. They consider that PER-2 is more reasonable. They seek to exclude the Port Zone from PER-1.
- 6.23.6 Rangitata Dairies [44.6] considers that the use and/or storage of hazardous substances in a dairy shed which did not have the required floor level would require a resource consent as a restricted discretionary activity under HS-R1. They seek to amend HS-R1 to allow the use and storage of hazardous substances in existing dairy sheds in Flood Assessment Areas as a permitted activity.
- 6.23.7 Ixom Operations [49.6] considers HS-R1 is restrictive as the whole port area, being within 250m of an MHF, is considered a sensitive environment and the Hazardous Substance Regulations already provides the framework for ensuring hazardous substances handled on sites are safe. They seek to amend HS-R1 as follows:
- PER-1*
- The hazardous facility is located outside a sensitive environment (other than a Flood Assessment Overlay **and within 250m of a MHF**); and*
- ...
- 6.23.8 BP Oil, et al [196.65] opposes HS-R1 in part given that the permitted activity status relies on the facility not being located in a sensitive environment other than Flood Assessment Area. The submitter notes it is unclear whether the proposed rule relates to alterations or changes to existing hazardous facilities. They seek to delete PER-1 and PER-2 to make the activity permitted without any standards.

Analysis

- 6.23.9 Regarding the Fonterra [165.56] submission, for the reasons set out above for Fonterra [165.53] in relation to the introduction, I consider that it is acceptable for a district plan to address the gaps in HSNO and HSWA. I therefore recommend that this submission is rejected.
- 6.23.10 Regarding the Road Metals [169.16], Fulton Hogan [170.17], Ixom Operations [49.6], PrimePort [175.35] and TDH [186.20] submissions, as per my assessment of BP Oil, et al [196.64] for HS-P4, I agree that “Sensitive Environments” is very broad. Accordingly, I recommended that HS-P4, HS-P1 and HS-R1 were amended to reduce where the provisions apply (i.e. to “Sensitive Locations”, as opposed to “Sensitive Environments”). This recommendation will respond to these specific submissions on HS-R1. Overall, I recommend these submissions are accepted in part.
- 6.23.11 Regarding the Rangitata Dairies [44.6] submission, I note that the definition of “Hazardous Facility” excludes the incidental storage and use of agrichemicals, fertilisers and fuel for land based primary production activities which would include dairying (clause 3) and therefore

HS-R1 would not require resource consent in the situation described. As I am not recommending any change resulting from this submission, I recommend that it is rejected.

- 6.23.12 Regarding the BP Oil, et al [196.65] submission, I have already recommended amending PER-1 to replace the reference to “Sensitive Environments” with a reference to “Sensitive Locations”. This reduces the locations where the rule applies. Regarding PER-2, I consider that it is appropriate to consider risk from these facilities resulting from natural hazard events and I note that BP Oil, et al [196.61] proposed a new policy that sought to minimise the risk of hazardous substances entering the environment in the event of a natural hazard event and as such deleting PER-2 would appear to be inconsistent with this requested new policy. Given my recommended changes in relation to “Sensitive Environments” I recommend that this submission is accepted in part.

Conclusions and Recommendations

- 6.23.13 I recommend that the submissions from Road Metals [169.16], Fulton Hogan [170.17], Ixom Operations [49.6], PrimePort [175.35], TDH [186.20] and BP Oil, et al [196.65] are **accepted in part**.
- 6.23.14 I recommend that the submissions Fonterra [165.56] and Rangitata Dairies [44.6] are **rejected**.
- 6.23.15 As I am recommending changes to HS-R1, I recommend that the submissions in support of this rule as set out in **Appendix 2** are **accepted in part**.
- 6.23.16 No amendments are recommended as a result of these submissions as changes to HS-R1 were set out earlier under HS-P4.

6.24 HS Chapter – HS-R2 Maintenance and repair of Major Hazard Facilities

- 6.24.1 The following table sets out the submission points covered in this section of the report (which may be individually or more broadly discussed). The decision requested in relation to each point is provided in full in **Appendix 2**:

SUBMITTER NAME	SUBMISSION POINT NUMBER(S)
Silver Fern Farms	172.43
Alliance Group	173.40
Southern Proteins	140.11
BP Oil, et al	196.66
Ixom Operations	49.7

Submissions

- 6.24.2 Five submissions sought amendments to HS-R2, while two submissions supported HS-R2.

- 6.24.3 Silver Fern Farms [172.43] and Alliance Group [173.40] support that MHF are able to be repaired and maintained to assist with ensuring the ongoing safety of the facility, but consider that upgrades should be provided for, given the benefits that upgrades can entail and also seek this rule apply to hazardous facilities. They seek the following amendments¹³:

HS-R2 Maintenance and repair of Major Hazard Facilities

Enable the upgrade, repair and maintenance of existing Major Hazard Facilities and hazardous facilities.

- 6.24.4 Southern Proteins [140.11] also seeks that HS-R2 provides for expansion of existing facilities as a permitted activity and seeks the following amendments:

HS-R2 Maintenance and repair of Major Hazard Facilities and additions to Major Hazard Facilities

Activity status: Permitted

Activity status when compliance not achieved: Not applicable

- 6.24.5 BP Oil, et al [196.66] also considers HS-R2 should include upgrades, changes and additions that do not increase or materially change the risk profile. They seek the following amendments:

HS-R2 Maintenance ~~and~~, repair, upgrades, additions and alterations of Major Hazard Facilities

Activity Status: Permitted

Where:

PER-1:

The activity does not increase or enlarge the risk profile of the major hazard facility, as measured from the date of notification of this Plan.

Activity status where compliance not achieved: Discretionary

- 6.24.6 Ixom Operations [49.7] considers it is unclear what HS-R2 would achieve and seeks it is deleted.

Analysis

- 6.24.7 Regarding the Ixom Operations [49.7] submission, I consider this rule provides a permitted pathway for maintenance and repair of MHF and that this is appropriate. HS-R2 also avoids confusion as to how these activities are to be assessed and from potential capture by HS-R4 (new MHF). I therefore recommend retaining this rule and rejecting this submission.

¹³ There appears to be a mistake in the submissions as the relief sought appears to be a requested change to HS-P2, rather than HS-R2.

- 6.24.8 Regarding the Silver Fern Farms [172.43] and Alliance Group [173.40] requests to add 'hazardous facilities' to this rule, the requested relief sought appears to be a mistake as the wording provided is taken from HS-P2, rather than HS-R2 and is inconsistent with their submission commentary. These submitters may wish to clarify their position on HS-R2 at the hearing.
- 6.24.9 Regarding the remaining submission requests, all of these seek to provide a pathway for additions / alterations / upgrades to existing MHF. In my opinion, there is a large spectrum of what additions / alterations / upgrades could entail but I agree that it would be appropriate to permit additions or upgrades which do not result in a change in the risk profile of the MHF, as proposed by BP Oil, et al. As currently drafted this rule could capture stormwater infrastructure works, new or changes to office buildings, or extensions to compounds which might have no impact on risk from the hazardous facility, while relocating a gantry, relocating a tank or installing a new tank might result in a change in risk profile and require an updated QRA.
- 6.24.10 While the change in risk profile is the key factor to consider, I have some concern about the validity of the BP Oil, et al proposed wording as whether an upgrade or change meets this standard requires an element of judgement, including through the QRA process. The general requirements for permitted activities are that they need to be:
- Comprehensible to a reasonably informed, but not expert, person;
 - Not reserve discretion to the council to decide by subjective formulation whether an activity is permitted or not;
 - Be sufficiently certain to be capable of objective assessment.
- 6.24.11 I have explored this matter with the planners representing BP Oil, et al.¹⁴ I understand that for Z Energy, a suitably qualified and experienced practitioner (SQEP) visits the site and undertakes the QRA when there are modifications to an MHF. As there are currently no New Zealand specific risk criteria guidelines, accepted practice is for the QRA results to be assessed against the criteria in the New South Wales Government Hazardous Industry Planning Advisory Papers (HIPAPs) – specifically HIPAP 4 Risk Criteria for Land Use Safety Planning and HIPAP 6 Hazard Analysis. I understand from these discussions that Z Energy would enable the Council to view a copy of the QRA for the purpose of demonstrating compliance with the permitted activity standard or that alternatively, a statement of compliance could be provided by a SQEP. I understand that the Proposed Wellington City Plan has a rule standard that requires no increase in the risk profile of the major hazard facility, with no stated requirement in the rule in relation to QRAs.¹⁵

¹⁴ SLR Consulting.

¹⁵ HS-R2 Proposed Wellington City District Plan (Appeals Version).

6.24.12 In my opinion, a rule that enables upgrades / additions on the basis that a QRA is undertaken and can be provided to the Council, is objectively framed, does not confer undue subjective judgement and is certain because:

- The QRA follows an industry standard approach;
- Parties can clearly ascertain whether the activity is permitted, based on the outcome of the standardised QRA;
- There is no requirement for Council to exercise discretion;
- The rule does not contain vague language that requires interpretation.

6.24.13 In discussions, the planners representing BP Oil, et al also suggested including a second permitted activity standard requiring that the total volume of hazardous substances manufactured, used, stored, or disposed of at a Major Hazard Facility does not increase by more than 10%. I support this additional standard as it would make more significant hazardous substances changes require a resource consent.

6.24.14 I do not support including a reference to “the date of notification of this Plan” (as proposed by BP Oil, et al) as if a resource consent was subsequently granted for changes to the MHF (under the new rule) and it is implemented (and the QRA updated), the starting point for reconsidering the rule and any further activities should be that consented rather than the old risk profile and volumes as at the PDP’s notification. BP Oil, et al’s planners have confirmed they no longer seek this clause for these reasons.

6.24.15 Overall, I am comfortable amending HS-R2 to enable upgrades as set out above. Accordingly, I recommend that this submission is accepted in part, along with the submissions from Southern Proteins, Silver Fern Farms and Alliance Group which also seek to provide a pathway for additions / upgrades.

Conclusions and Recommendations

6.24.16 I recommend that the submission from Ixom Operations [49.7] is **rejected**.

6.24.17 I recommend that the submissions from Silver Fern Farms [172.43], Alliance Group [173.40], Southern Proteins [140.11] and BP Oil, et al [196.66] are **accepted in part**.

6.24.18 Amend HS-R2 as follows:

HS-R2 Maintenance ~~and~~, repair, upgrades, additions and alterations of Major Hazard Facilities

Activity Status: Permitted

Where:

PER-1:

The activity does not increase the risk profile of the Major Hazard Facility as stated in a Quantitative Risk Assessment prepared by a suitably qualified and experienced practitioner; and

PER-2

The volume of total hazardous substances manufactured, used, stored, or disposed of at the Major Hazard Facility does not increase by more than 10%.

Activity status where compliance not achieved: Discretionary

6.25 HS Chapter – HS-R3 Sensitive activity, including subdivision to create a new allotment to accommodate future sensitive activity, in proximity to a Major Hazard Facility

- 6.25.1 The following table sets out the submission points covered in this section of the report (which may be individually or more broadly discussed). The decision requested in relation to each point is provided in full in **Appendix 2**:

SUBMITTER NAME	SUBMISSION POINT NUMBER(S)
Silver Fern Farms	172.44
Alliance Group	173.41
Ixom Operations	49.8

Submissions

- 6.25.2 Three submissions sought amendments to HS-R3, while one submission supported it.
- 6.25.3 Silver Fern Farms [172.44] and Alliance Group [173.41] agree that sensitive activities and subdivision should only be located where risks are acceptable. However, they consider it appropriate for the permitted activity performance standards to require a QRA to be provided to the operator of the MHF, given a development proponent will not necessarily understand if additional/altered development of the MHF is consented or planned - which could affect the validity of the QRA. They seek the following amendments:

HS-R3 Sensitive activity.... in proximity to a Major Hazard Facility Activity status: Permitted

Where:

PER-1

Where a Quantitative Risk Assessment has been prepared by a suitably qualified person for a Major Hazard Facility and provided to Timaru District Council, and the sensitive activity is located outside any area of unacceptable risk and evidence is provided that the

Quantitative Risk Assessment has been received by the operator of the Major Hazard Facility; [...]

- 6.25.4 Ixom Operations [49.8] considers the requirement within HS-R3 for a QRA will create issues for Council as activities at MHF's change over time and a QRA could quickly become out of date. They consider that it will be difficult for Council to maintain up to date QRA's for decision making on sensitive activities. They seek the following amendments:

Where a Quantitative Risk Assessment has been prepared by a suitably qualified person for a Major Hazard Facility and provided to Timaru District Council and the Quantitative Risk Assessment reflects the current nature.

Analysis

- 6.25.5 All three submissions are concerned that a QRA may not necessarily take into account additional/altered development of the MHF being assessed and this could affect the validity of the QRA. While I accept the concerns of the submitters, I do not consider that the recommended changes are necessary as a current QRA will need to be prepared to support an application triggered by HS-R3 and that QRA will need to assess the current and consented future activities¹⁶. I do not consider that the QRA should take into account future activities that are not at least consented as these activities may never occur. I therefore recommend that these submissions are rejected.

Conclusions and Recommendations

- 6.25.6 I recommend that the submissions from Silver Fern Farms [172.44] and Alliance Group [173.41], and Ixom Operations [49.8] are **rejected**.
- 6.25.7 No amendments are recommended.

6.26 HS Chapter – HS-R4 New Major Hazard Facilities and additions to Major Hazard Facilities

- 6.26.1 The following table sets out the submission points covered in this section of the report (which may be individually or more broadly discussed). The decision requested in relation to each point is provided in full in **Appendix 2**:

SUBMITTER NAME	SUBMISSION POINT NUMBER(S)
Silver Fern Farms	172.45
Alliance Group	173.42
Southern Proteins	140.12
BP Oil, et al	196.68

¹⁶ Consented activities are public information.

Submissions

- 6.26.2 Four submissions sought amendments to HS-R4, while three submissions supported it.
- 6.26.3 Silver Fern Farms [172.45] and Alliance Group [173.42] consider that the consenting requirements should only be triggered by an increase in risk as a result of changes to the volume of hazardous substance stored on site or how they are stored. Also, the submitters consider that the PDP should only manage risks that are not already managed by existing legislation. They seek to amend HS-R4 to clarify that a resource consent is only required when the volume of hazardous substances stored on site increases or there is a change to how they are stored. They also seek to change HS-R4 so that it only captures activities not already managed by existing legislation, for example instances where hazardous substances are located in an area that is subject to risks from natural hazards.
- 6.26.4 Southern Proteins [140.12] and BP Oil, et al [196.68] both raise concerns over additions and consider HS-R4 should be limited to new MHF only (with additions covered under HS-R2). BP Oil, et al [196.68] also considers that it is unclear what is intended by 'additions' to MHF.

Analysis

- 6.26.5 All four submission are concerned with 'additions' and how this is interpreted and applied. As I have recommended adding in additions / upgrades into HS-R2, I consider it is not necessary to amend HS-R4 to also cover additions / upgrades. HS-R4 clearly only applies to new MHF. Accordingly, I recommend these submissions are **rejected**.

Conclusions and Recommendations

- 6.26.6 I recommend that the submissions from Silver Fern Farms [172.45] and Alliance Group [173.42], Southern Proteins [140.12] and BP Oil, et al [196.68] are **rejected**.
- 6.26.7 No amendments are recommended.

6.27 HS Chapter – New Rules

- 6.27.1 The following table sets out the submission points covered in this section of the report (which may be individually or more broadly discussed). The decision requested in relation to each point is provided in full in **Appendix 2**:

SUBMITTER NAME	SUBMISSION POINT NUMBER(S)
Forest and Bird	156.91

Submissions

- 6.27.2 Forest and Bird [156.91] considers that new hazardous facilities should be restricted discretionary activities so that the location can be controlled and, if the risk to the

environment is too high, it can be declined. They seek the inclusion of a new rule to this effect.

Analysis

- 6.27.3 I am not clear on the environmental issues that are likely to arise from new hazardous facilities that are not MHF where the facility has been constructed in accordance with the applicable hazardous substances regulations, the facility meets the applicable zone and overlay activity rules and standards and noting my recommendations on “Sensitive Locations”.
- 6.27.4 I note that HS-R1 applies to the use and or storage of hazardous substances in a hazardous facility, rather than to a hazardous facility itself. The approach requested by Forest and Bird focusses the provisions on the hazardous facility, rather than the storage and use of hazardous substances within a hazardous facility. I do not support this proposed approach. I understand many hazardous facilities are not necessarily purpose-built facilities, but buildings that can house hazardous substances used as part of the activity occurring on site, such as industrial activities, and that these activities can change overtime within existing buildings. As such, I consider the focus should remain on the use and or storage of hazardous substances. I therefore recommend that this submission is rejected.

Conclusions and Recommendations

- 6.27.5 I recommend that the submission from Forest and Bird [156.91] is **rejected**.
- 6.27.6 No amendments are recommended.

6.28 HS Chapter – Planning Maps - Major Hazard Facilities overlay and SCHED 2 - Schedule of Major Hazard Facilities

- 6.28.1 The following table sets out the submission points covered in this section of the report (which may be individually or more broadly discussed). The decision requested in relation to each point is provided in full in **Appendix 2**:

SUBMITTER NAME	SUBMISSION POINT NUMBER(S)
PrimePort	175.3, 175.2 and 175.95
TDH	186.3, 186.2 and 186.69
Southern Proteins	140.2, 140.3 and 140.30
Silver Fern Farms	172.156, 172.35 and 172.160
Hilton Haulage	168.2
Z Energy	116.15
Alliance Group	173.152 and 173.32
TDC	42.74

Submissions

- 6.28.2 As these matters are related, I have grouped the separate submissions on the planning map MHF overlays with the submissions on SCHED2 which is the list of the mapped MHFs.
- 6.28.3 Seventeen submissions were received on the planning maps and SCHED2 seeking amendments.
- 6.28.4 Submissions seeking changes were received from:
- PrimePort [175.3], [175.2] and [175.95] and TDH [186.3], [186.2] and [186.69] seeking changes to ensure the mapping is accurate and the plan correctly references MHF, and SCHED2 is amended to correctly reference the MHF (for example SHF-3 is noted as Lot 30 DP 23140, but Lot 30 is unmapped, and SHF-15 on the maps does not have a corresponding listing in the schedule but is assumed to be MHF-2);
 - Southern Proteins [140.2] and [140.3] (and [140.30]) seeking changes on the location of SHF-16, its 250m buffer and alignment between the mapping and SCHED2;
 - Silver Fern Farms [172.156], [172.35] and [172.160] seeking to retain SHF-14 as it has been designated as a MHF by Worksafe and clarify the mapping;¹⁷
 - Hilton Haulage [168.2] seeking to amend SHF-16 so it only covers the 1.56ha Southern Proteins site recently created through a subdivision instead of the whole existing 12 ha parent site;
 - Z Energy [116.15] seeking to remove the SHF-8 notation from PDP Maps;
 - Alliance Group [173.152] and [173.32] seeking to clarify SCHED2 regarding the mapping of the Smithfield processing site as 'SHF-12' as this is not listed in SCHED2.
- 6.28.5 A submission from TDC [42.74] stated that instead of mapping MHF which are defined and managed by provisions in the PDP, the PDP mistakenly maps Significant Hazard Facilities (SHF). It states that during the drafting of the Plan and subsequent to feedback on the Draft District Plan, the Council moved away from the terminology and definition of SHFs in favour of a reduced number of MHFs, but unfortunately, the mapping associated with the provisions was not correctly updated. The Council seeks to amend the planning maps to delete the SHF and to instead illustrate the four MHF included in SCHED2 and as shown on the following map:

¹⁷ Silver Fern Farms also sought other changes included under submission point [172.35] which have been dealt with under the relevant provisions and separate submissions point numbers.



Analysis

- 6.28.6 Based on the TDC [42.74] submission there has been a mistake in the mapping. This has resulted in a number of submissions seeking clarity re mapping and SCHED2. I understand that SCHED2 and the notified provisions are correct, but the mapping is incorrect as it refers to SHF whereas it should refer to MHF and the number has been reduced to four MHF as identified by WorkSafe which are all located within the Timaru Port area. I recommend that this submission is accepted as the planning maps are clearly at odds with SCHED2 and the chapter.
- 6.28.7 Given the recommendation on the Council's submission [42.74], I recommend that the submissions from PrimePort [175.3], [175.2] and [175.95] and TDH [186.3], [186.2] and [186.69] are accepted.
- 6.28.8 Regarding the Southern Proteins submissions [140.2] [140.3] (and [140.30]), I recommend that these are accepted in part as SHF-16 will be deleted as a result of accepting the Council's submission [42.74].
- 6.28.9 Regarding the Silver Fern Farms [172.156], [172.35] and [172.160] submission seeking to retain SHF-14 and clarify the mapping, I understand that Worksafe does not currently list the Silver Fern Farms site as an MHF. I therefore recommend that these submissions are rejected as SHF-14 will be deleted as a result of accepting the Council's submission [42.74].
- 6.28.10 Regarding the Hilton Haulage [168.2] submission seeking to amend the location of SHF-16, I recommend that this submission is accepted in part as SHF-16 will be deleted as a result of accepting the Council's submission [42.74].

- 6.28.11 Regarding the Z Energy [116.15] submission which seeks to remove the SHF-8 notation from PDP Maps, I recommend that this submission is accepted as SHF-8 is not included in the Council's MHF maps and was not listed on SCHED2.
- 6.28.12 Regarding the Alliance Group [173.152] submission seeking to clarify SCHED2 as 'SHF-12' was not listed in SCHED2, I recommend that this submission is accepted as SHF-12 is not included in the Council's MHF maps and was not listed on SCHED2, so this clarifies the matter.

Conclusions and Recommendations

- 6.28.13 I recommend that the submissions from TDC [42.74], PrimePort [175.3], [175.2] [175.95], TDH [186.3], [186.2] [186.69], Z Energy [116.15] and Alliance Group [173.152] and [173.32] are **accepted**.
- 6.28.14 I recommend that the submission from Southern Proteins [140.2] [140.3] (and [140.30]), and Hilton Haulage [168.2] are **accepted in part**.
- 6.28.15 I recommend that the submissions from Silver Fern Farms [172.156], [172.35], [172.160] are **rejected**.
- 6.28.16 I recommend that the Planning Maps are amended in accordance with the TDC [42.74] submission map.
- 6.28.17 For clarity, no changes are recommended to SCHED-2 - Schedule of Major Hazard Facilities.
- 6.28.18 I consider these amendments correct an error in the drafting as the Proposed Plan was supposed to only include MHF, not SHF. As such, I consider that the original s32 continues to apply.

7. Conclusion

- 7.1.1 Submissions have been received both in support of and in opposition to the Contaminated Land and Hazardous Substances chapters and SCHED2 - Schedule of Major Hazard Facilities (and associated maps) of the Proposed Plan.
- 7.1.2 Having considered all the submissions and reviewed all relevant statutory and non-statutory documents, I recommend that the PDP should be amended as set out in **Appendix 1** of this report.
- 7.1.3 For the reasons set out in the Section 32AA evaluation included throughout this report, I consider that the recommended amended objectives and provisions are 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.

Recommendations:

7.1.4 I recommend that:

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

