

PROPOSED GORE DISTRICT PLAN SECTION 32 REPORT

HAZARDOUS SUBSTANCES



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Glossary of Terms

Resource Management Act 1991	RMA or 'the Act'
Gore District Council	GDC or 'the Council'
Operative District Plan	ODP
Proposed District Plan	PDP
Draft District Plan	DDP
New Organisms Act	HSNO
Health and Safety at Work (Major Hazard Facility) Act	HSW
Southland Regional Policy Statement	RPS
National Planning Standards 2019	PS
Southland Regional Policy Statement 2017	RPS
National Policy Statements	NPS
National Policy Statement for Urban Development	NPS-UD
National Policy Statement for Highly Productive Land	NPS-HPL
National Environmental Standards	NES
National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health	NESCS
National Environmental Standard for Air Quality	NESAQ
Permitted Activity	PA
Controlled Activity	CA
Restricted Discretionary Activity	RDA
Discretionary Activity	DA
Non-complying Activity	NCA
Southland District Plan	SDP
Clutha District Plan	CDP
Proposed Timaru District Plan	PTDP
Proposed Selwyn District Plan	PSDP
Proposed New Plymouth District Plan	PNPDP

1. Executive Summary

Section 32 of the Resource Management Act (the 'Act' or the 'RMA') requires objectives in plan change proposals to be examined for their appropriateness in achieving the purpose of the Act, and the policies and methods of those proposals to be examined for their costs, benefits, efficiency, effectiveness and risk in achieving the objectives. The analysis set out in this report is to fulfil the obligations of the Council under Section 32 of the Act.

This Section 32 evaluation report relates to the evaluation of the management of hazardous substances under the Gore District Plan. Objectives, policies, rules and standards for Hazardous Substances are located within Part 3 – District Wide Matters as part of the Hazards and Risks section of the Plan as required by the National Planning Standards.

Hazardous substances are largely managed and controlled through the Hazardous Substances and New Organisms Act (HSNO) and Health and Safety at Work (Major Hazard Facility) Act (HSW). However, it may be appropriate to manage the effects of activities which use, store, manufacture and / or dispose of hazardous substances through the district plan in the following instances:

- To manage the establishment of hazardous facilities or activities storing, using or manufacturing hazardous substances adjacent to or within a sensitive environment or an area where sensitive activities are anticipated.
- To prevent sensitive or incompatible activities from establishing in areas where hazardous facilities / activities are located or anticipated to prevent reverse sensitivity concerns.

This report evaluates the resource management issues relating to hazardous substances against the Operative District Plan (ODP) and Proposed District Plan (PDP) provisions to ascertain if they are the most efficient and effective means of achieving the purpose of the Act. The preferred option has been determined as the PDP which provides more appropriate provisions to manage potential or actual adverse effects associated with hazardous substances without duplicating the requirements of other legislation. Furthermore, the provisions provide greater clarity and direction for plan users and decision makers and will ensure high quality environmental, economic, social and cultural outcomes for people and the community.

The Hazardous Substances Chapter will assist the Council to fulfil its statutory functions and responsibilities as required by the Act through the following proposed objectives, policies and rules:

- Objectives which provide for significant hazardous facilities provided they are appropriately located to prevent significant adverse effects on people's health, sensitive environments and cultural values associated with the natural environment. The objectives also recognise the benefit of significant hazardous facilities and seek to protect them through avoiding the effects of reverse sensitivity which may compromise their operation.
- Policies which:
 - Protect human health, sensitive environments and cultural values associated with the natural environment.
 - Allow for extensions and / or upgrades to significant hazardous facilities where risks are not increased.

- Manage the location, layout and design of significant hazardous facilities.
- Avoid reverse sensitivity effects.
- Rules which:
 - Enable extension and / or upgrade of an existing significant hazardous facility where the facility is located outside of a sensitive environment and the extension / upgrade does not alter the location or quantity of hazardous substances used, stored or disposed of onsite.
 - Manage or avoid new significant hazardous facilities as a discretionary activity in the General Industrial Zone and a non-complying activity in all other zones.
 - Require sensitive activities to be set back at least 250m from a significant hazardous facility except in relation to the existing Alliance meatworks plant in Mātaura where there are already sensitive activities or sites where sensitive activities are permitted and anticipated. In respect of the Alliance plant in Mātaura the setback is 100m.

The ODP contains Chapter 6 – Hazardous Substances. The key change from the ODP is that the PDP no longer controls the quantity and volume of hazardous substances stored as this is managed under the HSNO and HSW Acts, instead the focus is on managing adverse effects from significant hazardous facilities on sensitive environments and environments where there is a higher density of sensitive activities.

Although the change from the ODP is moderate – high because of the change in approach to managing hazardous substances, the overall scale and significance of change is considered to be moderate and as such this report is commensurate to this change.

2. Overview and Purpose

2.1 Introduction to the resource management issue(s)

The purpose of the hazardous substance chapter is to manage the establishment of hazardous substances / facilities in relation to sensitive environments and activities and manage reverse sensitivity effects from new activities establishing in close proximity to hazardous facilities.

The provisions seek to address and manage the following issues:

1. The risk to human health and the environment when new significant hazardous facilities are established or existing facilities are extended.
2. The establishment of incompatible activities in close proximity to anticipated or existing significant hazardous facilities.

2.2 Purpose of the report

The purpose of this report is to provide an evaluation of the proposed provisions in accordance with the requirements of Section 32 of the RMA 1991.

The PDP includes a Chapter on Hazardous Substances which is consistent with the requirements of the National Planning Standards. The chapter contains objectives, policies, rules and standards to manage the effects of use, storage or disposal of hazardous substances where those effects are not managed by other legislation.

This report assesses the appropriateness of the proposed objectives to achieve the purpose of the Act and the effectiveness and efficiency of the policies, rules and standards which give effect to the objectives. This report also provides information on the issues the provisions seek to address, research undertaken and an evaluation of the provisions relating to the hazardous substance provisions within the ODP.

An assessment of the scale and significance of the provisions will inform the level of detail included in this report.

3. Statutory and Policy Context

3.1 Resource Management Act

In carrying out a s32 analysis, an evaluation is required of how the proposal achieves the purpose and principles contained in Part 2 of the RMA.

Section 5 sets out the purpose of the RMA, which is to promote the sustainable management of natural and physical resources.

Sustainable management means *managing the use, development, and protection of natural and physical resources to enable people and communities to provide for their social, economic and cultural wellbeing and for their health and safety, while –*

- (a) *sustaining the potential of natural and physical resources (excluding minerals) to meet the reasonably foreseeable needs of future generations; and*
- (b) *safeguarding the life-supporting capacity of air, water, soil, and ecosystems; and*
- (c) *avoiding, remedying, or mitigating any adverse effects of activities on the environment.*

In achieving this purpose, authorities also need to recognise and provide for the matters of national importance identified in s6, have particular regard to other matters referred to in s7 and take into account the principles of the Treaty of Waitangi referred to in s8.

Section 6

Whilst there are no section 6 matters which are directly relevant the provisions seek to discourage the establishment of significant hazardous facilities within Outstanding Natural Features and Landscapes or Significant Natural Area or Areas of Indigenous Biodiversity. Therefore, the following section 6 matters are indirectly relevant as the provisions seek to align with these matters:

- (b) *the protection of outstanding natural features and landscapes from inappropriate subdivision, use, and development.*
- (c) *the protection of areas of significant indigenous vegetation and significant habitats of indigenous fauna.*
- (e) *the relationship of Māori and their culture and traditions with their ancestral lands, water, sites, waahi tapu, and other taonga.*

Section 7

The section 7 matters that are relevant to this topic are:

- (a) *kaitiakitanga;*
- (b) *the efficient use and development of natural and physical resources;*
- (c) *the maintenance and enhancement of amenity values:*

(f) maintenance and enhancement of the quality of the environment

Section 8 of the RMA requires the Council to take into account the principles of the Treaty of Waitangi (Te Tiriti o Waitangi). Mana whenua, through the Hokonui Runanga, have partnered with the Council in the preparation of the PDP.

Section 18A(b)(i) of the RMA requires that policy statements and plans “*include only those matters relevant to the purpose of the Act*”. This is relevant to hazardous substances as it is noted that other legislation covers the majority of matters relating to storage, use, disposal or transportation of hazardous substances. The PDP should therefore focus only on matters relating to achieving the purpose of the Act in respect of hazardous substances.

Sections 30 and 31 of the RMA were amended in 2017 by the Resource Legislation Amendment Act (RLAA) to remove the control of hazardous substances as an explicit function of councils, resulting in them no longer being obliged to manage hazardous substances in RMA policy statements or plans. However, councils still have a broad function of achieving integrated management, and can use this function to impose additional controls on hazardous substances under the RMA if existing HSNO or HSW Act controls inadequately address the environmental effects of hazardous substances.

The RMA enables councils through their District Plans to include additional land use controls for the prevention or mitigation of any adverse effects of the storage, use, disposal and transport of hazardous substances. Land use controls may relate to matters such as the location of hazardous facilities, their potential impacts on other land uses and the natural environment, and the transport of hazardous substances undertaken as part of the hazardous facility's operation. In addition, land use controls may be used to manage incompatibility between activities, such as new sensitive activities locating in areas at unacceptable risk from existing significant hazardous facilities.

Section 31 is relevant insofar as it requires the Council to establish, implement and review a District Plan which contains objectives, policies and methods to achieve a range of purposes as listed above. This report considers the appropriateness of the new objectives within the PDP to achieve the purpose of the Act. The review of the ODP and the establishment of a new District Plan allows Council to give effect to Section 31.

3.2 National Policy Statements

The Section 32 - Overview Evaluation Report includes details and a brief assessment of all National Policy Statements (NPS). There are no NPS which have particular relevance to the Hazardous Substance Chapter.

3.3 National Environmental Standards

The Section 32 - Overview Evaluation Report includes details and a brief assessment of all National Environmental Standards (NES). There are no NES which have direct relevance to the Hazardous Substance Chapter. The Resource Management (National Environmental Standards for Assessing and Managing Contaminants in Soil to Protect Human Health) Regulations 2011 (the NESCS) has some relevance insofar as it relates to land contaminated (or potentially contaminated) by hazardous substances to protect human health. The NESCS is applicable to any site which is currently used, or may historically have been used for an

activity and / or industry on the Hazardous Activities and Industries List (HAIL). The HAIL is referenced in the NESCS.

3.4 National Planning Standards

The National Planning Standards (PS) 2019 require a more standardised approach to district plans. This includes separate chapters for district wide matters such as noise, earthworks, hazardous substances, natural hazards. The PS also provide the structure and form for the Plan content along with definitions and mapping criteria.

The PS state that if the following matters are addressed, they must be located within the Hazardous Substances chapter which is located under the 'Hazards and Risks' heading in part 3 of the Plan:

- a. *any provision required to manage the land use aspects of hazardous substances*
- b. *provisions relating to the use, storage and disposal of hazardous substances on land that presents a specific risk to human or ecological health, safety and property*
- c. *provisions required to manage land use in close proximity to major hazard facilities to manage risk and reverse sensitivity issues.*

The PS also include a definition of Hazardous Substances:

Has the same meaning as per the Resource Management Act – includes, but is not limited to, any substance defined in section 2 of the Hazardous Substances and New Organisms Act 1996 as a hazardous substance. The Hazardous Substances and New Organisms Act 1996 defines hazardous substances as meaning, unless expressly provided otherwise by regulations or an EPA notice, any substance—

(a) with 1 or more of the following intrinsic properties:

(i) explosiveness:

(ii) flammability:

(iii) a capacity to oxidise:

(iv) corrosiveness:

(v) toxicity (including chronic toxicity):

(vi) ecotoxicity, with or without bioaccumulation; or

(b) which on contact with air or water (other than air or water where the temperature or pressure has been artificially increased or decreased) generates a substance with any 1 or more of the properties specified in paragraph (a).

3.5 Regional Policy Statement

The Southland Regional Policy Statement 2017 (RPS) sets out the framework and priorities for resource management in the region. The RPS identifies the regionally significant issues around the management of the Region's natural and physical resources and sets out what needs to be achieved (objectives) and the way in which the objectives will be achieved (policies and methods). The PDP is required to give effect to the regional policy statement as required by section 75(3) of the RMA.

Chapter 12 of the RPS relates to hazardous substances and identifies the resource management issues associated with hazardous substances:

"Adverse effects on the environment (including human health and safety) may arise from the storage, use, transportation and disposal of hazardous substances."

The issue is address by an objective and seven policies. The policies relate to:

- hazardous substance storage facilities and containers
- accidents involving hazardous substances
- transportation of hazardous substances
- disposal of hazardous substances
- alternatives to hazardous substances
- improvement of knowledge
- new contaminated land

Method HAZ.2 – District Plans requires territorial authorities to:

“Consider establishing and maintaining provisions in district plans to control the use of land for activities that store, use, transport, or dispose of hazardous substances, to avoid, remedy or mitigate adverse effects and manage risks from the storage, use, transportation and disposal of hazardous substances, including on:

(a) other land use activities;

(b) the health and safety of the community;

(c) amenity values, and community and tangata whenua resources, cultural and spiritual values.”

3.6 Regional Plans

Environment Southland has prepared a number of regional plans, these include:

- Regional Air Plan 2016
- Effluent Land Application Plan 1998
- Regional Water Plan 2010

Environment Southland’s proposed Southland Water and Land Plan was made partially operative following a council meeting in January 2021.

The proposed Southland Water and Land Plan manages hazardous substances as follows:

- discharge of agrichemicals to land where they may enter water are permitted provided the agrichemicals are approved for use in New Zealand under the HSNO Act and the use is compliant with the conditions of approval (from the Environmental Protection Agency).
- Discharge of stormwater from industrial or trade premises where hazardous substances are stored or used is only permitted where certain conditions are met. In relation to hazardous substances the following conditions must be met:
 - the hazardous substance is controlled so it cannot enter the stormwater system; or
 - there is an interceptor system to collect stormwater which may contain a hazardous substance and discharge or divert it to a trade waste system; or
 - the stormwater contains no hazardous substances except oil and grease and the stormwater is passed through an oil interceptor system prior to discharge.
- The discharge of dust suppressant and sludge from agricultural dips (mobile or stationary) onto or into land is permitted where the dust suppressant is not a hazardous substance or is a hazardous substance approved under the HSNO Act and the use is compliant with the conditions of approval (from the Environmental Protection Agency).

Wastewater is considered to be a hazardous substance and so the provisions of the Effluent Land Application Plan have relevance to hazardous substances.

3.7 Iwi Environmental Management Plan(s)

‘Te Tangi a Tauira – The Cry of the People’ the Ngai Tahu Ki Murihiku Natural Resource and Environmental Management Plan identifies a broad range of relevant matters when considering where and how Gore grows and develops. In particular, there is a desire to:

- Limit the impacts of climate change on indigenous species and ecosystems and the risks of natural hazards by appropriately managing urban development and providing for sustainable energy and transport systems.
- Protect sites of significance and indigenous biodiversity areas along with appropriate management of water.
- Limit impacts of industrial activity and subdivision by involving iwi in decision making processes and managing land use, building and water issues.
- Provide appropriate infrastructure management.

‘Te Tāhū o Te Whāriki’, the Ngāi Tahu Climate Change Strategy, identifies a need to assess future commercial risks, protect wahi tapu, mahinga kai and other taonga, prepare plans to relocate Marae and Runānga facilities threatened by increasing hazards, as well as influence agencies to develop climate change responses.

In relation to hazardous substances the Plan supports and advocates for controlled use and appropriate storage of highly toxic and hazardous substances in the region. Section 3.4.13 of the Plan focuses on hazardous substances and new organisms and acknowledges the potential harm from hazardous substances. Ngāi Tahu ki Murihiku seek further strengthening of their relationship with HSNO in the form of consultation on applications for purposes such as weed and pest control, genetic manipulation, development of new medicines, food and crops or when general research is undertaken. The following issues are identified in respect of hazardous substances:

- *Involvement of Ngāi Tahu in decision making processes.*
- *Effects of hazardous substances on human health.*
- *Effects on the environment as a result of contamination and pollution of hazardous substances.*
- *Effects on indigenous biodiversity and mahinga kai.*
- *Effects on or damage to significant sites.*
- *Adverse impacts of sedimentation and discharges on mahinga kai from hazardous substances.*
- *Monitoring of potential effects from introduced new organisms or hazardous substances.*
- *Consultation and communication of highly technical information to rūnanga.*
- *Transport (and associated spill risk) of hazardous substances.*

Policies are included in the Plan to address these issues:

1. *Require appropriate consultation with regards to Hazardous Substances or New Organisms applications. Pre application, site visits, and presentation of findings are encouraged. Continued liaison with Te Rūnanga o Ngāi Tahu is essential.*
2. *Consultation and communication of highly technical information should in addition be presented in plain language, to enable rūnanga (and other community groups) to make informed decisions.*

3. *Consider any application for Hazardous Substances or New Organisms in terms of the potential effects, both positive and adverse, on indigenous biodiversity.*
4. *Advocate for use of Cultural Impact Assessments when considering applications for Hazardous Substances and New Organisms to appropriately assess the environmental impacts on cultural values held by Ngāi Tahu ki Murihiku.*
5. *Oppose the use of any hazardous substances where it is likely that such use will have an effect on water quality and land, influencing the life supporting and productive capacity of both.*
6. *Generally support the introduction of biological agents over alternative use of toxic or residual herbicides for plant pest control. However, such introduction of biological control agents should be assessed with respect to the degree of risk to indigenous vegetation, the degree of risk of the pest plant to indigenous vegetation, and the benefits that introducing such an agent would have to indigenous species and ecosystems.*
7. *Become involved in the ongoing monitoring and assessment of continued use of approved biological control agents.*
8. *Support best practice for the transportation of hazardous substances on terrain where there is a high degree of spill risk. This is in coastal, river/lake edge and mountainous areas. Approved containers in which substances are carried are required.*
9. *Advocate for appropriate consultation over the introduction of any genetically modified organism. Ngāi Tahu ki Murihiku shall have time to assess any social or cultural concerns associated with such introduction and the impacts this will have on aspects of rangatiratanga and kaitiakitanga.*
10. *Ensure the appropriateness of approved field trials with respect to land use, construction and placement. Field trials must be established using robust scientific information. Ongoing monitoring of the trials with respect to safety and site security is essential.*

3.8 Other Legislation and Policy and Guidance Documents

Since the introduction of the ODP in 2006, regulations under the Hazardous Substances and New Organisms Act 1996 (HSNO) and the Health and Safety at Work Act 2015 (HSW Act) have come into effect and are now considered to be the primary legislative and regulatory mechanisms to address hazardous substances matters. Given this, the District Plan Review has focused on placing additional controls on hazardous substances only where it is necessary to control legitimate RMA related effects not covered by the HSNO or HSW legislation.

Hazardous Substances and New Organisms Act 1996 (HSNO)¹

The HSNO Act governs the management of hazardous substances. In particular, it provides the general framework for controlling hazardous substances during their entire life cycle. The Act includes requirements relating to the manufacture and importation of a hazardous substance as well as its use and disposal.

Although the Environmental Protection Authority (EPA) administers the HSNO Act there are a number of agencies responsible for its enforcement.

¹ [Hazardous Substances and New Organisms Act 1996 No 30 \(as at 01 November 2022\), Public Act Contents – New Zealand Legislation](#)

Section 142 of the HSNO Act provides that RMA plans can only include more stringent requirements where these are considered ‘*necessary*’ for the purposes of the RMA, otherwise the HSNO Act requirements prevail.

The HSNO Act also provides a definition of ‘hazardous substance’, the RMA defines hazardous substance as any substance included in, but not limited to, this definition:

hazardous substance means, unless expressly provided otherwise by regulations or an EPA notice, any substance—

- (a) with 1 or more of the following intrinsic properties:
 - (i) explosiveness:
 - (ii) flammability:
 - (iii) a capacity to oxidise:
 - (iv) corrosiveness:
 - (v) toxicity (including chronic toxicity):
 - (vi) ecotoxicity, with or without bioaccumulation; or
- (b) which on contact with air or water (other than air or water where the temperature or pressure has been artificially increased or decreased) generates a substance with any 1 or more of the properties specified in paragraph (a)

Health and Safety at Work Act (Hazardous Substances) Regulations²

On 1 December 2017 the rules around managing hazardous substances in the workplace transferred from the Hazardous Substances and New Organisms Act (HSNO) to the Health and Safety at Work (Hazardous Substances) Regulations. Worksafe New Zealand enforces the rules relating to the use, handling and storage of hazardous substances in the workplace under the Health and Safety at Work Act. It also:

- Implements the rules by providing guidance, managing the compliance certification regime, and developing more detailed and technical rules for some hazardous substances.
- Enforces the ecotoxic and disposal requirements in the workplace, which are set under the Hazardous Substances and New Organisms Act (HSNO).
- Provides information and tools to help businesses understand their obligations.

Ministry for the Environment Guidance Note: Managing Hazardous Substances under the Resource Management Act³

The Guidance Note explains that in most instances hazardous substances will be appropriately managed through HSNO Act and HSW Act, however, there may be some circumstances where RMA controls are justified. Those controls may differ according to local circumstances, however, controls are generally only justified when hazardous substances are located in sensitive environments and/or incompatible activities. Provisions should focus on ensuring the risk of adverse effects is acceptable rather than risk avoidance.

² [Health and Safety at Work \(Hazardous Substances\) Regulations 2017 \(LI 2017/131\) \(as at 05 January 2022\)](#)
[Contents – New Zealand Legislation](#)

³ [Hazardous Substances under the RMA | Quality Planning](#)

The HSNO Act and HSW Act controls set rules for the use, storage, handling and disposal of hazardous substances depending on a substance classification. The Guidance Note indicates that hazardous substance related District Plan controls are unnecessary in relation to the following matters: signage, tank standards, and the disposal and waste management of hazardous substances. However, these rules generally do not cover resource management issues associated with the use, storage, transportation or disposal of hazardous substances. These issues relate to the location of activities using larger quantities of hazardous substances (significant hazardous facilities) or the potential for reverse sensitivity effects. However, any controls on hazardous substances also need to be justified by a Section 32 evaluation showing why a higher degree of environmental protection is necessary through the district plan.

The Guidance Note indicates that it may be appropriate for District Councils to control hazardous substances in their plans where this involves:

- New, particularly sensitive areas or land uses (e.g. wetlands, open rivers and streams).
- Areas prone to natural hazards (e.g. flood prone areas, areas susceptible to liquefaction, close to active fault lines, or areas susceptible to coastal storm surges).
- Major hazardous facilities (in particular considering potential cumulative effects on adjacent land uses).
- Reverse sensitivity (where more sensitive receiving activities such as residential activities are allowed to locate in proximity to existing hazardous facilities).

Further, it states that any additional rules imposed to address location specific issues should be written in a way that is user friendly and enables easy interpretation by different members of the community – they should also avoid creating unnecessary confusion with existing provisions under HSNO and HSW.

Other relevant legislation or regulations

The following legislation is relevant to hazardous substances and has been considered in preparing the PDP:

- Building Act 2004 – safe storage of hazardous substances.
- Fire and Emergency New Zealand Act 2017 - incidents involving hazardous substances are considered to be emergencies that are attended by the Fire Service.
- Health Act 1956 - control nuisances, offensive trades, and the handling and storage of noxious substances.
- Agricultural Compounds and Veterinary Medicines Act 1997 - registration and use of chemicals.
- Land Transport Act 1998 - transport of hazardous substances on land.

3.9 Other Local Policies, Strategies and Plans

Spatial Plan

In January 2020, the Council released a strategic planning document *Ready for Tomorrow – A Spatial Plan for the Gore District* seeking public feedback on potential growth options for

the main urban areas in the district. The document outlines the issues the Council considers important, possible future outcomes and opportunities and was the culmination of various Council initiatives in recent years, in particular the 2018 program Ready for Growth which provided impetus locally as a community lead development strategy applying the direction given by the Southland Regional Development Strategy at a District level. Its overall objective is to grow the district population by 1,500 people by 2030. Through extensive community consultation, Ready for Growth has identified a comprehensive overview of the socio-economic conditions required to generate sustainable growth and opportunity across the district and provides an important strategic framework for the future.

The Plan identifies approximately 777 hectares of land for industrial zoning. Some of the areas identified were large areas suitable for accommodating heavy industries which are likely to include significant hazardous facilities.

Trade Waste Bylaw 2016

Manages trade waste from industrial activities including significant hazardous facilities which may be discharging wastewater that contains hazardous substances. The bylaw defines trade waste as *“any liquid, with or without matter in suspension or solution, that is or may be discharged only from a trade premises to the Council’s sewerage system in the course of any trade or industrial process or operation, or in the course of any activity or operation of a like nature; and may include tinkered waste, condensing or cooling waters; stormwater which cannot be practically separated, or domestic sewage.”*

The bylaw includes requirements on the storage, transport, handling and use of hazardous or harmful materials and states:

“2.2(b) No person shall store, transport, handle or use, or cause to be stored, transported, handled or used any hazardous substance as defined by the Hazardous Substances and New Organisms Act or any of the materials listed in clause 2.2(c) in a manner that may cause the material to enter the Council’s Sewerage System”

2.2(c) Materials referred to in clause 2.2 (a) and (b) are:

- (i) A product or waste containing corrosive, toxic, biocidal, radioactive, flammable or explosive materials; and*
- (ii) Likely to generate toxic, flammable, explosive or corrosive materials in quantities likely to be hazardous, when mixed with the wastewater stream; and*
- (iii) Likely to be deleterious to the health and safety of humans or animals or be harmful to the Council’s sewerage system.”*

The bylaw requires any person who wants to discharge of trade waste to apply to Council with details of the discharge, Council may then permit (with or without conditions) the discharge.

3.10 Climate Change

The effects of climate change have been added to other matters decision makers should have particular regard to (RMA s7(i)).

In accordance with 2020 RMA amendments, by 2022 District Plans will not only need to have regard to the effects of climate change (adaptation) but also climate change mitigation and national adaptation and emission reduction plans prepared under the Climate Change Response Act 2002. A compact urban form with most activities located around good transport connections and that takes account of the changing nature of natural hazards will help achieve these requirements. Further guidance will be provided in relation to Climate Change as emission targets and RMA reform progresses.

The effects of climate change have been given regard to by limiting the storage of hazardous substances in the Maitava River floodway and areas susceptible to inundation. Rules are also provided in relation to management of hazardous substances within flood prone areas through the Natural Hazards Chapter.

4. Resource Management Issue Analysis

4.1 Background

Section 2.1 of this report identifies two resource management issues which the PDP hazardous substances chapter provisions address:

1. *The risk to human health and the environment when new significant hazardous facilities are established or existing facilities are extended.*
2. *The establishment of incompatible activities in close proximity to anticipated or existing significant hazardous facilities.*

Issue 1

Allowing activities which involve use, storage or disposal of higher quantities of hazardous substances to establish in an environment with significant natural character and values, indigenous biodiversity or cultural values could result in adverse effects on those special values. Likewise allowing facilities, such as significant hazardous facilities to establish in areas with higher densities of sensitive activities such as a residential zone could have a significant adverse effect on human health. Whilst the HSNO Act does consider surrounding land uses and requires different clearances based on the surrounding land uses, the more bespoke controls through the PDP will reduce the risk of adverse effects on sensitive environments and sensitive activities in a more directive, clear and appropriate manner.

The PDP provisions provide a discretionary activity status for significant hazardous facilities establishing within the General Industrial Zones and Rural Industry Precinct. A non-complying activity status is proposed for significant hazardous facilities establishing in all other zones. Furthermore, extensions or upgrades to existing significant hazardous facilities are not permitted in sensitive environments, which include outstanding natural features and landscapes, significant natural areas and areas of indigenous biodiversity.

The intent of the rule framework is to direct new facilities to the General Industrial Zone or Rural Industry Precinct which have been assessed as more suitable for accommodating these

types of activities, subject to resource consent approval which may include conditions around siting, management, operation and mitigation.

The General Industrial zone locations have been assessed in the Section 32 Evaluation report for Industrial Zones and the Rural Industry Precinct has been assessed in the Section 32 Evaluation report for Rural Zones.

Issue 2

Significant hazardous facilities are likely to be activities which are locally or regionally significant to the economy by providing higher employment opportunities and contributing to the social and economic wellbeing of the district. It is important therefore that these facilities and activities are protected by avoiding reverse sensitivity effects which may compromise their operation. It is acknowledged that within the district there are activities, such as the Alliance meatworks, which have established in close proximity to residential dwellings.

The PDP anticipates that new significant hazardous facilities will generally be located within the General Industrial Zone which are typically setback from residential or other more sensitive zones, however, it is still possible that without controls sensitive activities could establish close to a significant hazardous facility and result in reverse sensitivity effect.

4.2 Operative Plan Approach

Chapter 6 of the ODP contains objectives, policies and rules relating to management of hazardous substances. The provisions seek to manage the potential risk associated with the use, storage, transportation and disposal of hazardous substances that could adversely affect the environment and human health.

6.3 Objectives

- (1) *Prevent or mitigate adverse environmental effects and risks associated with the use, storage, transportation and disposal of hazardous substances.*

6.4 Policies

- (1) *Limit the quantities of hazardous substances stored at sites to a level that is appropriate to the activities undertaken on that site and appropriate to the environment of that locality.*
- (2) *Encourage alternatives to the use of hazardous substances.*
- (3) *Minimise the risks associated with the transportation of hazardous substances.*
- (4) *Avoid, where practical, the disposal of hazardous substances within the Gore District.*
- (5) *Ensure that any disposal of hazardous substances undertaken is in such a manner as to avoid any actual or potential adverse environmental effects.*

The rules permit storage or use of specific quantities of hazardous substances as specified in the Plan (Table 6.2). Where the volume of hazardous substance specified in the Plan is exceeded resource consent is required as a Restricted Discretionary Activity, with the matter of discretion being “*the environmental effects of storing or using hazardous substances in quantities in excess of those specified in table 6.2*”. However, any facility for the disposal of hazardous substances is a Discretionary Activity.

4.3 Effectiveness of Operative Plan

Issue	Comment	Response
The ODP is out of date and duplicates controls covered by other legislation.	Amendments to the RMA in 2017 removed the requirement for regional and territorial authorities to control the adverse effects of the storage, use, disposal and transportation of hazardous substances to ensure RMA controls do not duplicate controls in the HSNO Act and HSW Act. However, Councils have a broad power to manage hazardous substances through District Plan provisions and Policy Statements to achieve the purpose of the Act and to allow for integrated management of natural and physical resources. This function should only be exercised where the potential environmental effects are not adequately addressed by other legislation.	The PDP does not duplicate matters controlled by other legislation (HSNO and HSW Acts). Instead the provisions focus on control of significant hazardous facilities locating in sensitive environments or environments where there is a higher density of sensitive activities, as well as managing potential reverse sensitivity effects from the establishment of new activities which use, store or dispose of quantities of hazardous substance above domestic levels.
The current provisions are complex, technical and incomplete.	The ODP includes a lengthy list of permitted hazardous substances and quantities, however, this list is not exhaustive and can be complicated for plan users to understand without expert input.	The PDP does not duplicate HSNO and HSW legislation, instead the provisions are clear and only cover appropriate resource management issues. A clear definition of significant hazardous facilities is provided to provide clarity for plan users and remove complexity around understanding.
There are no limits on sensitive activities establishing near significant hazardous facilities.	There are historic situations, such as the Alliance meatworks plant in Mātaura, which has	The PDP includes policies and rules to manage sensitive activities establishing close to

	established in close proximity to residential dwellings on smaller sections. This has the potential to compromise the important operation of the meatworks and adversely affect the amenity of the nearby residential landowners.	significant hazardous facilities.
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The ODP approach is not efficient or effective as it duplicates other legislation (HSNO), does not take account of the 2017 RLAA amendments to the RMA and is therefore inappropriate to deal with the resource management issues which have been identified.

4.4 State of the Environment

In accordance with Regulation 68 of the HSW (Major Hazard Facilities) Act information is provided to the public on the Worksafe website for Major Hazard Facilities, except where disclosing information would lead to a security threat for the facility. The Health and Safety at Work website does not list any Major Hazard Facilities in Gore district, however, based on the definition in the PDP the following existing activities would be significant hazardous facilities:

- Alliance meatworks – Main Street, Mataura
- Silver Fern Farms meatworks – Saleyard Road, Gore
- Mataura Valley Milk – Waipahi Highway, Whiterigg, Gore
- Diaken – Pioneer Highway, Mataura

With the exception of Daiken these activities are all zoned Industrial under the ODP. These activities all store and / or use hazardous substances of varying quantities on their sites.

4.5 Analysis of Best Practice – how other Councils are addressing the same issue

To understand whether the PDP provisions in relation to hazardous substances are appropriate and consistent with how other Councils are addressing the same issue the following District Plans were reviewed:

- Southland District Plan⁴ (Southland District Council borders Gore District Council to the north, south and east)
- Clutha District Plan⁵ (Clutha District Council borders Gore District Council to the west)
- Proposed New Plymouth District Plan⁶

⁴ [District Plan | Southland District Council \(southlanddc.govt.nz\)](https://www.southlanddc.govt.nz/)

⁵ [District Plan - Clutha District Council \(cluthadc.govt.nz\)](https://www.cluthadc.govt.nz/)

⁶ [IsoPlan \(selwyn.govt.nz\)](https://www.selwyn.govt.nz/)

- Proposed Selwyn District Plan ⁷

Southland District Plan 2018 (SDP)

Chapter 2.8 of the SDP relates to waste, hazardous substances and contaminated land. The chapter was amended in November 2018, however, this amendment was to give effect to the National Environmental Standards for Plantation Forestry Regulations 2017. The objective and policies seek to manage the storage, use, transportation and disposal of hazardous substances to avoid the effects on human health and the environment. The rules have permitted, controlled and discretionary activity statuses and generally enable or manage the use, storage, disposal or transportation of hazardous substances. The rules enable the storage, use or transport of hazardous substances in specific instances, including (but not limited to) for domestic purposes; within a vehicle's fuel system; specific storage and use of agrichemicals; fertilisers and fuels within the Rural and Eweburn Zones subject to NZ Standards and Environment Protection Agency approval. Storage of particular hazardous substances is a controlled activity subject to conditions such as quantity limits. Any activity which does not meet permitted or controlled activity conditions is a discretionary activity.

Clutha District Plan 1998 (CDP)

The CDP does not contain any specific objectives, policies or rules relating to hazardous substances. However, the overview in the Industrial Resource Area Chapter acknowledges that industrial activities may use or store hazardous substances. The rules also require consent as a discretionary activity for an offensive trade as defined by the Health Act 1956. Schedule 3 of the Health Act defines offensive trades and many of those activities would fall under the PDP definition of a significant hazardous facility.

Proposed Selwyn District Plan (PSDP) - publicly notified on 5 October 2020 with a variation notified on 20 August 2022

The Hazardous Substances chapter of the PSDP contains similar objectives, policies and rules to the PDP, a notable difference is HAZS-R1 which permits '*use and/or storage of hazardous substances, excluding a major hazard facility*'. The PSDP has a definition of Major Hazard Facility which is the same as the HSW (Major Hazard Facilities) Act.

Proposed New Plymouth District Plan (PNPDP) - decisions notified on 13 May 2023

The PNPDP proposes a more complicated set of provisions than the PDP, using risk management contours and risk threshold levels. The objectives and policies seek to manage adverse effects from significant hazardous facilities by identifying areas where these facilities should be avoided and requirements for new facilities. The policies also seek to avoid reverse sensitivity by managing the proximity of sensitive activities to significant hazardous facilities. Rules are provided for the establishment of new significant hazardous facilities and for the maintenance, upgrade or repair of existing facilities. The rules also specify a non-complying activity status for significant hazardous facilities within proximity of particular sensitive environments including waterbodies, significant natural areas, natural hazard areas, sites and areas of significance to Māori, coastal environment area, national grid yard and public access corridors. Any sensitive activity locating within a risk management contour or within 250m of an existing significant hazardous facility which doesn't have risk management contour on the planning maps are also a non-complying activity.

Summary and conclusions

⁷ [IsoPlan \(npdc.govt.nz\)](https://www.nzdc.govt.nz/iso-plan/)

The SDP is not considered to reflect current best practice requirements for how hazardous substances are managed under a district plan. The PDP adopts a similar approach to the PSDP with clear and concise objectives, policies and rules which do not duplicate other legislation and are easy for plan users to interpret and understand.

5. Scale and Significance

5.1 Scale and Significance Evaluation

Section 32(1)(c) of the RMA requires that this report contain a level of detail that corresponds to the scale and significance of the environmental, economic, social, and cultural effects that are anticipated from the implementation of the proposal.

	Assessment				
	Low	Low - Moderate	Moderate	Moderate - High	High
Degree of change from the ODP					X
Scale of effects – geographically (local, district wide, regional, national).			X		
Effects on matters of national importance (s6 RMA)		X			
Scale of effects on people (how many will be affected – single landowners, multiple landowners, neighbourhoods, the public generally, future generations?).	X				
Scale of effects on those with specific interests, e.g., Tangata Whenua		X			
Degree of policy risk – does it involve effects that have been considered implicitly or explicitly by higher order documents? Does it involve effects addressed by other standards/commonly accepted best practice?	X				
Likelihood of increased costs or restrictions on individuals, communities or businesses.		X			

5.2 Evaluation Summary

The change from the ODP is high due to the shift in approach to managing hazardous substances following the 2017 RMA amendments. The ODP controls the volumes of hazardous substances stored which duplicates other legislative requirements whereas the PDP provisions seek only to address resource management issues to cover the residual risk to people, communities and sensitive environments which are not covered by other legislation.

However, considering the scale of effects, degree of policy risk and likelihood of increased costs or restrictions the overall scale of significance is considered to be low – moderate. Therefore, the level of detail provided within this evaluation is commensurate with the scale and significance of the environmental, economic and cultural effects that are anticipated from the implementation of the provisions.

6. Consultation

6.1 Overview

The Section 32 – Overview Evaluation Report provides an overview of the consultation undertaken to date in respect of the PDP. The PDP has been prepared in partnership with Hokonui Rūnanga who have reviewed and provided feedback on the hazardous substances chapter to ensure consistency with the Mana Whenua Chapter and that cultural values are appropriately integrated throughout the proposed provisions.

Engagement with the community on the draft District Plan was undertaken between 10th August 2022 and 30th September 2022. The feedback received in respect of the Hazardous Substances Chapter is summarised in Appendix 1.

Feedback was generally received from commercial operators whose activities involve hazardous substances (fuel companies, Alliance Group, Silver Fern Farms) and those with an interest in the management of hazardous substances (Federated Farmers, Fire and Emergency New Zealand, Transpower, Royal Forest and Bird Protection Society).

Mixed feedback was received with several parties suggesting the provisions relating to hazardous substances should be included within a zone chapter and the separate chapter deleted. As this is contrary to the PS the hazardous substance chapter has been retained.

Other feedback and amendments to the draft District Plan related to:

- Management of reverse sensitivity, which was addressed through an Objective, Policy and Rule in the PDP.
- A request to enable extensions to significant hazardous facilities where there is no increase in risk, which has been addressed through a Rule in the PDP.
- Technical amendments to the definition of significant hazardous facility, update references to more up to date legislation and greater clarification within the overview section to clarify that hazardous substances incidental to domestic and farming activities are not intended to be covered by the PDP.
- Improved clarity for HAZS-P1 to ensure the policy is clear and direct in relation to the management of adverse effects from significant hazardous facilities.

7. Proposed Plan Provisions

7.1 Strategic Direction

The PDP includes a number of strategic objectives which have been tested in terms of s32(1)(a) in their relevant s32 reports. However, the other chapters of the plan should align with these strategic objectives to ensure vertical integration within the PDP.

Objective UFD-O1 relates to general development and urban environments within the district and a further objective (UFD-O8) seeks to specifically recognise the value of major facilities to the district. These objectives have relevance to hazardous substances as a resource management issue.

Objective UFD-O1 seeks to ensure that the district develops in a cohesive, compact and structured manner. This includes managing adverse effects between incompatible activities and zones.

Objective UFD-O8 seeks to ensure that major facilities (which would include significant hazardous facilities) are able to operate efficiently and effectively and the contribution they make to the economic wellbeing and prosperity of the district is recognised.

The mana whenua chapter articulates mana whenua and Te Taiao values. The objectives and policies in the hazardous substance chapter, integrate with the values identified in the mana whenua chapter to ensure appropriate consideration of cultural values. The objectives and policies also ensure protection of sensitive environments which may hold special cultural significance for mana whenua.

7.2 Objectives, Policies and Rules

Objectives
The objectives provide for significant hazardous facilities provided they are appropriately located to prevent significant adverse effects on people's health, sensitive environments and cultural values associated with the natural environment. The objectives also recognise the benefit of significant hazardous facilities and seek to protect them through avoiding the effects of reverse sensitivity which may compromise their operation.
Policies
The policies give effect to the two objectives and provide more direction on the appropriateness of significant hazardous facilities by enabling extensions or upgrades to existing facilities where the location or quantity of hazardous substances stored and / or used onsite does not change; managing the location of the significant hazardous facility to protect sensitive environments, avoid the risk of natural hazards, protect public health and cultural associations with the natural environment. A further policy requires that new sensitive activities must avoid locating near significant hazardous facilities unless the risk of reverse sensitivity can be mitigated.
Rules
Three rules provide for the following: • Enable extension and / or upgrade of an existing significant hazardous facility where the facility is located outside of a sensitive environment and the extension

/ upgrade does not alter the location or quantity of hazardous substances used, stored or disposed of on site.

- Manage or avoid new significant hazardous facilities as a discretionary activity in the General Industrial Zone and a non-complying activity in all other zones.
- Require new sensitive activities to be set back at least 250m from a significant hazardous facility except in relation to the existing Alliance meatworks plant in Matura where there are already sensitive activities or sites where sensitive activities are permitted and anticipated. In respect of the Alliance plant in Matura the setback is 100m.

Definitions

The following relevant definitions are included in the PDP:

Hazardous Substance

Has the same meaning as per the Resource Management Act – includes, but is not limited to, any substance defined in section 2 of the Hazardous Substances and New Organisms Act 1996 as a hazardous substance. The Hazardous Substances and New Organisms Act 1996 defines hazardous substances as meaning, unless expressly provided otherwise by regulations or an EPA notice, any substance—

(a) with 1 or more of the following intrinsic properties:

- (i) explosiveness:
- (ii) flammability:
- (iii) a capacity to oxidise:
- (iv) corrosiveness:
- (v) toxicity (including chronic toxicity):
- (vi) ecotoxicity, with or without bioaccumulation; or

(b) which on contact with air or water (other than air or water where the temperature or pressure has been artificially increased or decreased) generates a substance with any 1 or more of the properties specified in paragraph (a).

Significant Hazardous Facility

means the use of land and/or buildings (or any part of) for one or more of the following activities:

1. Manufacturing and associated storage of hazardous substances (including manufacture of agrichemicals, fertilisers, acids/alkalis or paints).
2. Petroleum exploration and petroleum production.
3. The storage/use of more than 50,000L of petrol.
4. The storage/use of more than 100,000L of diesel.
5. The storage/use of more than 6 tonnes of LPG.
6. Galvanising plants.
7. Electroplating and metal treatment.
8. Tanneries.
9. Timber treatment.
10. Freezing works and rendering plants.
11. Wastewater treatment plants.
12. Metal smelting and refining (including battery refining or recycling).
13. Milk processing plants (except where milk processing plant is specifically designed to contain and store milk so that any reasonably potential spillage of milk is contained within the site of the plant until it can be disposed of to an approved wastewater system).
14. Fibreglass manufacturing.
15. Polymer foam manufacturing.

16. Any Major Hazard Facility under the Health and Safety at Work (Major Hazard Facilities) Regulations 2016.

For (3) and (4), it does not include the underground storage of petrol and diesel at service stations undertaken in accordance with HSNOCOP 44 Below Ground Stationary Container Systems for Petroleum – Design and Installation and HSNOCOP 45 Below Ground Stationary Containers Systems for Petroleum – Operation.

Note: Using the HSW (Major Hazard Facility) Act definition of Significant Hazard Facility was considered, however, the option was discounted as the definition is difficult for plan users to understand what would constitute a Significant Hazardous Facility. However, for completeness facilities defined as Major Hazard Facilities under the HSW Act have been included in the definition. Through the draft district plan Significant Hazardous Facilities were referred to as 'Major Hazardous Facilities' however, this was considered to create confusion with HSW Act Major Hazard Facility and so an amendment to the wording was included in the PDP.

Sensitive Activity

means any:

- a. health care centre or hospital
- b. educational facility, including school, early childhood facility, play centre
- c. residential activity, including retirement village and supported residential accommodation
- d. visitor accommodation
- e. places of worship
- f. marae or Papatipu Rūnanga complex
- g. Graveyard or urupā

Sensitive Environment

means land identified with: Outstanding Natural Features and Landscapes or Significant Natural Area or Areas of Indigenous Biodiversity

8. Evaluation of Objectives

This section of the report evaluates the proposed objectives as to whether they are the most appropriate to achieve the purpose of the Act.

Existing Objective	Appropriateness to achieve the purpose of the Act
6.3(1) Prevent or mitigate adverse environmental effects and risks associated with the use, storage, transportation and disposal of hazardous substances.	The objective does achieve the purpose of the Act because it: Seeks to avoid, remedy or mitigate adverse effects on the environment of activities which use, store, transport or dispose of hazardous substances (section 5(2)(c)). Relevance The objective is relevant to managing the potential and actual adverse effects of hazardous substances which is broadly in line with the identified resource management issues. However, the objective is too general to provide direction as to what effects and risks are to be prevented or mitigated and may therefore duplicate matters covered by other legislation (HSNO & HSW). The objective provides some assistance to plan users and decision makers and addresses a relevant resource management issue, however, the objective does not reflect the RMA amendments which remove the requirement to manage storage of hazardous substances through the district plan as other legislation covers this matter. Usefulness: The objective is broad and general and so does not provide sufficient guidance for decision makers. Furthermore, the objective does not provide clear direction as it does not describe an end state but simply requires prevention or mitigation of environmental effects. Reasonableness: There may be some level of uncertainty for plan users due to the general nature of the objective, however, the imposition of the objective is unlikely to result in unjustifiably high costs for the community. Achievability: The objective does not consider identified cultural values and community outcomes specifically but the general ‘prevent and mitigate environmental effects’ may result in cultural values being respected and community outcomes being achieved. However, the objective is not specific enough to provide certainty in this regard. The objective can realistically be achieved within the Council’s powers, skills and resources.

Proposed Objective	Appropriateness to achieve the purpose of the Act
HAZS-O1 - Locate, design and operate significant hazardous facilities to prevent significant adverse effects on the environment, including on the health of people, the value of sensitive environments and the underlying relationship Ngāi Tahu hold with the natural environment.	The objective is considered the most appropriate way to achieve the purpose of the Act because it: - section 5(2) - allows people and communities to provide for their economic wellbeing while ensuring that adverse effects are avoided, remedied or mitigated. - section 6(e) – provides for the relationship of Māori with their cultural and traditions with their ancestral lands, water, sites, waahi tapu and other taonga. Relevance The objective addresses a relevant resource management issue by providing for significant hazardous facilities whilst managing adverse effects on the environment. The objective will assist Council in undertaking its functions under section 31 by ensuring that significant hazardous facilities are located in appropriate zones and adverse effects are managed. The objective is consistent with the PDP strategic direction by providing for productive and economic growth and ensuring adverse effects on Ngāi Tahu’s relationship with the natural environment and natural values are minimised (UFD-O1). Usefulness: The objective provides clear direction and guidance for decision makers and expresses the outcomes sought in relation to the location, design and operation of significant hazardous facilities. Reasonableness: The objective is clear and directive and therefore will avoid uncertainty for Plan users and decision makers. The objective will not result in unjustifiably high costs associated with processing resource consent applications. Achievability: The objective seeks outcomes which can be achieved within the scope of Council’s powers, skills and resources and is consistent with identified cultural values and community outcomes.

Proposed Objective	Appropriateness to achieve the purpose of the Act
HAZS-O2 - New sensitive activities are located to minimise reverse sensitivity effects on significant hazardous facilities to avoid unacceptable risks to the sensitive activity and recognise the benefits of significant hazardous facilities.	The objective is considered the most appropriate way to achieve the purpose of the Act because it: Will allow for communities to provide for their economic wellbeing by providing for significant hazardous facilities which generate employment and support the local economy (section 5(2) whilst avoiding and mitigating adverse effects on the amenity values of the community (section 5(2)(c)). Relevance The objective addresses a relevant resource management issue by recognising the benefits of significant hazardous facilities and managing reverse sensitivity effects. The objective will assist Council in undertaking its functions under section 31 by ensuring that adverse effects are appropriately managed. The objective is consistent with the PDP strategic direction by providing for productive and economic growth and ensuring adverse effects on Ngāi Tahu's relationship with the natural environment and natural values are minimised (UFD-O1) and by ensuring significant hazardous facilities are able to operate efficiently and effectively in recognition of the contribution they make to the economic wellbeing and prosperity of the district (UFD-O8). Usefulness: The objective provides clear direction and guidance for decision makers and expresses the outcomes sought in relation to the location of new sensitive activities relative to significant hazardous facilities. Reasonableness: The objective is clear and directive and therefore will avoid uncertainty for plan users and decision makers. The objective will not result in unjustifiably high costs associated with processing resource consent applications. Achievability: The objective seeks outcomes which can be achieved within the scope of Council's powers, skills and resources and is consistent with identified cultural values and community outcomes.

Summary Overall, the proposed objectives provide greater clarity and certainty for plan users and decision makers whilst also achieving the purpose of the Act in a reasonable, useful, relevant and achievable manner. The objectives will allow Council to fulfil their obligations under s31 of the Act, are consistent with identified cultural values and outcomes and align with relevant strategic direction.

9. Evaluation of Options to Achieve the Objectives

9.1 Introduction

Section 32(1)(b) requires an evaluation of whether the provisions are the most appropriate way to achieve the objectives by identifying other reasonably practicable options, assessing the efficiency and effectiveness of the provisions in achieving the objectives, and summarising the reasons for deciding on the provisions.

The assessment must identify and assess the benefits and costs of environmental, economic, social and cultural effects that are anticipated from the implementation of the provisions, including opportunities for economic growth and employment. The assessment must if practicable quantify the benefits and costs and assess the risk of acting or not acting if there is uncertain or insufficient information available about the subject matter.

For each potential approach an evaluation has been undertaken relating to the costs, benefits and the certainty and sufficiency of information (as informed by section 4 of this report) in order to determine the effectiveness and efficiency of the approach, and whether it is the most appropriate way to achieve the relevant objective(s). For the purpose of this evaluation, the Council has considered the following potential options:

- Option A - The proposed provisions
- Option B - The 'status quo' provisions.
- Option C – The draft District Plan provisions

9.2 Quantification of Costs and Benefits

Section 32(2)(b) requires that if practicable the benefits and costs of a proposal are quantified.

Based on the scale and significance of the proposed changes, specifically the degree of change from the ODP, level of policy risk and scale of effects, it is considered that quantifying costs and benefits is unnecessary. Therefore, exact quantification of the benefits and costs identified in this report was not considered necessary, beneficial or practicable. Rather, the table below generally identifies where there may be additional cost(s) and benefit(s).

9.3 Evaluation of Options

Option A – Proposed Provisions	
Objective	
HAZS-O1	Locate, design and operate significant hazardous facilities to prevent significant adverse effects on the environment, including on the health of people, the values of sensitive environments and the underlying relationship Ngāi Tahu hold with the natural environment.
Policies and rules which give effect to the objective	
HAZS-P1	Manage adverse <i>effects</i> from new <i>significant hazardous facilities</i> locating in the General Industrial Zone and Rural Industry Precinct by: 1. internalising <i>effects</i> through <i>site</i> layout and design, including the use of buffers; 2. locating <i>significant hazardous facilities</i> outside of, and <i>setback</i> from, <i>sensitive environments</i> and avoiding adverse <i>effects on</i> Ngāi Tahu cultural values; 3. locating <i>significant hazardous facilities</i> outside the Maitara River Floodway and all mapped district inundation areas to avoid the <i>effects of natural hazards</i> and protect the environment; and 4. managing cumulative <i>effects</i> of multiple separate <i>significant hazardous facilities</i> locating in close proximity.
HAZS-P2	Avoid adverse <i>effects</i> from new <i>significant hazardous facilities</i> by: 1. internalising <i>effects</i> through <i>site</i> layout and design, including the use of buffers; 2. locating <i>significant hazardous facilities</i> outside of, and <i>setback</i> from, <i>sensitive environments</i> and 3. addressing adverse <i>effects on</i> Ngāi Tahu cultural values; 4. locating <i>significant hazardous facilities</i> outside the Maitara River Floodway and all mapped district inundation areas; and 5. managing cumulative <i>effects</i> of multiple separate <i>significant hazardous facilities</i> locating in close proximity.
HAZS-P3	Allow the extension of existing significant hazardous facilities located outside of sensitive environments where the risks associated with hazardous substance storage, use or disposal are not increased.
HAZS-R1	Extension or upgrade to existing significant hazardous facility is permitted where the extension or upgrade does not increase the risks associated with storage, use or disposal of hazardous substances and the

site is not located within a sensitive environment.	
HAZS-R2	New significant hazardous facilities are a discretionary activity in the General Industrial Zone and Rural Industry Precinct and non-complying activity in all other zones.
Objective	
HAZS-O2	New sensitive activities are located to minimise reverse sensitivity effects on significant hazardous facilities to avoid unacceptable risks to the sensitive activity and recognise the benefits of significant hazardous facilities.
Policies and rules which give effect to the objective	
HAZS-P4	Avoid new sensitive activities locating near significant hazardous facilities unless the risk of reverse sensitivity effects can be mitigated.
HAZS-R3	Require sensitive activities to be located at least 250m from a site containing or used by a significant hazardous facility, except for the Large Lot Residential and Rural Lifestyle Zones in Mataura close to the Alliance Group meatworks where a setback of 100m is required to recognise an existing situation.
Benefits	
Environmental	
- Improved clarity and direction for plan users and decision makers will ensure significant hazardous facilities are located, designed and managed to minimise adverse effects on the environment. - The rule framework will ensure that significant hazardous facilities locate in appropriate areas (General Industrial Zone and / or Rural Industry Precinct) and away from sensitive environments, such as Significant Natural Areas.	
Economic	
- The provisions are more appropriate considering other legislation relating to the storage, transportation, use and disposal of hazardous substances and therefore avoid duplication and potentially reduce unnecessary resource consent costs. - The provisions have a lesser consent pathway for significant hazardous activities establishing within the General Industrial Zone and Rural Industry Precinct. This recognises that these locations are appropriate for those activities which support economic growth, and recognise the benefits associated with these activities which tend to be larger employers and generate significant contributions to the local economy.	
Social	
The provisions seek to better manage where significant hazardous facilities locate and how they are designed and managed, this will potentially improve the wellbeing and health and safety of people.	
Cultural	
The provisions seek to ensure that significant hazardous facilities locate away from areas of high cultural sensitivity and sensitive natural environments. The clearer and more directive framework aims to provide more beneficial outcomes in relation to cultural values.	
Costs	
Environmental	
There are not considered to be any environmental costs associated with the PDP as the provisions seek to be manage adverse effects to safeguard the environment.	
Economic	
- Where resource consent is required there will be a cost, however, the clearer direction provided by the rule framework will result in greater processing efficiencies than at present which will keep costs reasonable. - Costs will increase for any significant hazardous facility looking to locate outside the General Industrial Zone or Rural Industry Precinct as the policy framework seeks to avoid activities locating outside those areas. - There may be a cost associated with obtaining a resource consent for any new sensitive activity located within the setback distances to significant hazardous facilities.	
Social	
There may be a social cost for existing properties which are located close to new significant hazardous facilities which establish in the new General Industrial Zone and Rural Industry precinct.	
Cultural	
There are limited cultural costs anticipated from the proposed provisions as the locations where significant hazardous facilities are provided for have been thoroughly investigated. Effects on cultural values will be further assessed through the resource consent process in accordance with the policy framework which requires consideration of cultural values.	
Efficiency	
There are a number of improved efficiency outcomes associated with the PDP provisions which have a more appropriate focus than the ODP provisions. These include improved clarity through more directive objectives and policies which provide greater certainty for plan users and decision makers and will improve efficiency compared to the status quo option.	
Effectiveness	
The proposed provisions are considered to be the most effective means of achieving the objective(s) as together they will: enable the Council to fulfil its statutory obligations, including duties imposed on the Council by s31 of the RMA.	

• address the identified resource management issues by ensuring that adverse effects from significant hazardous facilities are managed appropriately by ensuring facilities are located in an appropriate area and adverse effects on the community and environment are managed. • provide for significant hazardous facilities in certain locations in recognition of the economic benefits these larger scale activities may generate for the district which aligns with the relevant strategic direction. • enable the Council to effectively administer its District Plan in a clear and consistent manner.
Alternative options which are more or less appropriate to achieve the objective
Option B – Status Quo The current provisions are not considered appropriate as the policies and rules relate to the storage, use and transportation of hazardous substances which is covered by other legislation and therefore not appropriately managed through the District Plan. The existing provisions lack clarity and direction and do not clearly address the issues which have been identified and which the proposed objectives address, therefore maintaining the status quo is not an appropriate way to achieve the objectives.
Option C – Draft District Plan provisions The draft District Plan provisions did not provide for reverse sensitivity created by locating sensitive activities close to significant hazardous facilities and may have resulted in unduly restrictive requirements if a significant hazardous facility was extended in a manner that did not increase or change the level or location of hazardous substances stored onsite. The PDP provisions also reflect a change to the zoning in south Matura and provide greater clarity and direction to Plan users.
Risk of acting or not acting
Without providing for significant hazardous facilities, activities may either establish in an inappropriate location with may adversely affect amenity values of the community, sensitive environments and cultural values. Furthermore, activities may be deterred from establishing in the Gore district to the detriment of the vitality, vibrancy and economic wellbeing of the district. There is risk of inefficiencies and a failure to achieve effective outcomes if the Council does not act by introducing clearer more directive provisions and maintains the status quo. The Council has a good understanding of the nature of activities, their operational requirements, and their associated effects on the environment.

9.4 Summary of Preferred Options

Summary The preferred option is the PDP provisions which will achieve the purpose of the Act and provide greater clarity and direction to plan users and decision makers thereby being consistent with Section 5 of the RMA 1991. The provisions provide an appropriate balance between allowing for larger scale industrial activities (significant hazardous facilities) to operate and function, recognising the economic benefits these activities generate, whilst managing the potential adverse effects on the environment. The proposed provisions seek to ensure that activities are appropriately located and that new sensitive activities are setback to reduce reverse sensitivity effects.
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Appendix 1 – Feedback Summary

Person / Organisation	Feedback summary	Response
BP Oil NZ Ltd, Mobil NZ Ltd and Z Energy Ltd	- Following the 2017 RLAA controls of hazardous substances under District Plans are largely considered unnecessary as they are managed by HSNO & HSW Acts unless a robust s32 analysis is provided. - Supportive of intent of the objectives and policies but note provisions do not consider reverse sensitivity i.e. a sensitive activity establishing in close proximity to existing major hazardous facilities. - HAZS-P2 should focus on ensuring risks are managed to an acceptable level without reference to buffers, which are only one tool to manage risk. - Neutral in respect of HAZS-R1 subject to appropriate definition of Major Hazardous Facility. - Definition of Hazardous Facility – Major is duplication of Major Hazardous Facility and should be deleted. Amendments suggested to the definition of Major Hazardous Facility to increase amount of diesel stored and decrease the amount of petrol stored, include activities which are deemed to be a Major Hazard Facility under the HSWA Regulations and exempt storage of diesel as well as petrol at service stations, truck stops and commercial refuelling facilities.	Provisions added to manage reverse sensitivity. Agree that definition of hazardous facility – major is a duplication and accept advice on storage of fuel volumes.
Alliance Group Ltd	- Supports the permissive approach taken in the District Plan which recognises the primary role of HSNO. However, having a separate chapter to manage Hazardous Facilities is not efficient or logical and may present interpretation and implementation challenges for plan users. Provisions should be incorporated into the zone chapters and the entire chapter should be deleted. - The discretionary pathway for any works to Major Hazardous Facilities would trigger consent even in cases where no change is proposed in relation to the use, storage or disposal of hazardous substances. Consent should only be triggered by risks which are not managed by other legislation e.g. where hazardous substances are in an area of significant natural hazard risk. - Definition of Hazardous Facility – Major should be deleted as Major Hazardous Facility is the more commonly used term. Suggests replacing ‘freezing works’ with ‘meat processing’ which is more current terminology. - Suggests a change to the definition of reverse sensitivity to ensure the risks are considered by the possible establishment of another activity rather than just activities which are already established.	The PS directs that if provisions relating to hazardous substances are addressed, they must be located in a chapter. The PDP is therefore consistent with the PS. Amendments proposed to allow for extensions or upgrades to existing facilities where there is no change to the location or quantity of hazardous substances. Accept recommended changes to definition of Major Hazardous Facility which is now the definition for ‘significant hazardous facilities’ to avoid confusion with other legislation. Additional provisions have been added to manage reverse sensitivity effects.
Silver Fern Farms	- Supports the permissive approach taken in the District Plan which recognises the primary role of HSNO. However, having a separate chapter to manage Hazardous Facilities is not efficient or logical and may present interpretation and implementation challenges for plan users. Provisions should be incorporated into the zone chapters. - The discretionary pathway for any works to Major Hazardous Facilities would trigger consent even in cases where no change is proposed in relation to the use, storage or disposal of hazardous substances. Consent should only be triggered by risks which are not managed by other legislation e.g. where hazardous substances are in an area of significant natural hazard risk. - Definition of Hazardous Facility – Major should be deleted as Major Hazardous Facility is the more commonly used term. Suggests replacing ‘freezing works’ with ‘meat processing’ which is more current terminology.	
Southland Helicopters Ltd	Supports NZAAA submission on Hazardous Substances section of the Plan.	Acknowledged
Fire and Emergency NZ	Note 2 should be updated to refer to Fire and Emergency New Zealand Act 2017 instead of Fire Service Act 1975 and reference to the Fire Service should be amended to Fire and Emergency New Zealand.	Amendment acknowledged and updated in the PDP.
New Zealand Agricultural Aviation Association	Considers that duplication of HSNO Act requirements in the Plan is not efficient and does not add any effective control over hazardous substance management therefore the permissive nature of the chapter is supported.	Acknowledged
Transpower	Neutral in respect of provisions but suggests a nationally consistent approach to the management of activities within the National Grid Yard, including that storage and use of materials with explosive or flammable properties is a non-complying activity.	The use and storage of hazardous substances within the National Grid Yard would be covered by HSNO & HSW Act requirements and duplication within the PDP is not required.

Southland Federated Farmers	Definition of Major Hazardous Facilities should exclude farm storage and use of hazardous substances.	Farm storage of hazardous substances is already exempt from the definition which refers to manufacture <u>and associated</u> storage. Therefore, storage alone would be excluded from the definition of Major Hazardous facility and would not trip farms into being Major Hazardous Facilities.
Royal Forest & Bird Protection Society NZ	Seeks a rule that specifies hazardous substances must be stored, used or disposed of outside Significant Natural Areas (SNA) and a setback (50-100m) to SNA is included. Any use of hazardous substances with an SNA should be a non-complying activity.	Any new Major Hazardous Facility is a discretionary activity in a General Industrial Zone, there are no SNAs in the General Industrial zones and non-complying in all other zones. However, a policy has been added to direct decision makers and this includes avoiding locating major hazardous facilities within sensitive environments (which includes SNAs).
Overall feedback summary		
Some parties consider the chapter is unnecessary and the provisions should be incorporated into zone chapters, other parties are supportive of the approach taken in the chapter which defers to HSNO and HSW Acts as the primary legislations to manage hazardous substances. Amendments to the definition of 'major hazardous facility' are suggested. Feedback also suggested introducing provisions to manage sensitive activities locating near major hazardous facilities and provision for extensions to existing major hazardous facilities which do not increase the risk to have a permitted activity status.		
Key Changes to provisions		
- Draft Plan Rule HAZS-R1 split into two rules, one to provide for new significant hazardous facilities and the other to enable extension or upgrade of existing major hazardous facilities where there is no change to the location or quantity of hazardous substances stored, used or disposed of onsite and the facility is not within a sensitive environment. The rule trips to discretionary in the General Industrial Zone and General Rural Zone and non-complying in all other zones. - Additional objective, policy and rule added to manage reverse sensitivity effects from sensitive activities establishing in close proximity to a major hazardous facility. - Amendment to Note 2 to update reference to Fire and Emergency New Zealand Act 2017. - Update the Chapter 'Overview' to explain more clearly the purpose of the chapter, which is to manage significant hazardous facilities and protect them against reverse sensitivity effects. The 'Overview' has been updated to clarify that hazardous substances incidental to domestic and farming activities are not intended to be covered by the plan provisions. - Amend HAZS-P1 to provide greater clarity and direction for managing adverse effects from significant hazardous facilities. - Amend definition of Major Hazardous Facility to change wording to 'Significant Hazardous Facility' and incorporate suggested volumes of petrol and diesel for storage.		