

Proposed Selwyn District Plan



Section 42A Report

Report on submissions and further submissions

Contaminated Land and Hazardous Substances

Jocelyn Lewes

10 September 2021

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List of submitters and further submitters addressed in this report

Submitter ID	Submitter Name	Abbreviation
DPR-0171	Eliot Sinclair	
DPR-0205	Lincoln University	
DPR-0209	Manmeet Singh	
DPR-0212	Ellesmere Sustainable Agriculture Incorporated	ESAI
DPR-0213	New Zealand Institute for Plant and Food Research Limited and Landcare Research	Plant and Food and Landcare
DPR-0215	Winstone Aggregates	
DPR-0260	Canterbury Regional Council (Environment Canterbury)	CRC
DPR-0353	Horticulture New Zealand	HortNZ
DPR-0358	Rolleston West Residential Limited	RWRL
DPR-0363	Iport Rolleston Holdings Limited	IRHL
DPR-0370	Fonterra Limited	Fonterra
DPR-0372	Dairy Holdings Limited	DHL
DPR-0374	Rolleston Industrial Holdings Limited	RIHL
DPR-0379	Jill Thomson	
DPR-0383	Z Energy Limited, BP Oil New Zealand Limited and Mobil Oil New Zealand Limited	Oil Companies
DPR-0384	Rolleston Industrial Developments Limited	RIDL
DPR-0407	Royal Forest and Bird Protection Society of New Zealand Inc	Forest & Bird
DPR-0422	Federated Farmers of New Zealand - North Canterbury	NCFF
DPR-0446	Transpower New Zealand Limited	Transpower
DPR-0448	New Zealand Defence Force	NZDF

Please refer to **Appendix 1** to see where each submission point is addressed within this report.

Abbreviations

Abbreviations used throughout this report are:

Abbreviation	Full text
CLWRP	Canterbury Land and Water Regional Plan CLWRP
CRPS	Canterbury Regional Policy Statement 2013
HAIL	Hazardous Activities and Industries List
IMP	Mahaanui Iwi Management Plan 2013
MHF	Major Hazard Facility
Planning Standards	National Planning Standards
PDP	Proposed Selwyn District Plan
RMA or Act	Resource Management Act 1991
SDC or the Council	Selwyn District Council

1. Purpose of report

- 1.1 This report is prepared under s42A of the RMA in relation to the Contaminated Land and Hazardous Substances Chapters in the PDP. The purpose of this report is to provide the Hearing Panel with a summary and analysis of the submissions received on these chapters and to make recommendations on either retaining the PDP provisions without amendment or making amendments to the PDP in response to those submissions.
- 1.2 The recommendations are informed by the evaluation undertaken by myself as the planning author. In preparing this report, I have had regard to the s42A report on Strategic Directions prepared by Mr Love, the Overview s42A report that addresses the higher order statutory planning and legal context, also prepared by Mr Love, and the Part 1 – Introduction and General Provisions s42A report prepared by Ms Tuilaepa.
- 1.3 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.

2. Qualifications and experience

- 2.1 My full name is Jocelyn Margaret Lewes. I am employed by the Council as a Strategy and Policy Planner. My qualifications include a Bachelor of Commerce (Tourism) from Lincoln University and a Bachelor of Planning from the University of Auckland.
- 2.2 I have over 20 years' experience working as a resource management planner, with this work including having been employed in various resource management positions in local governments and private companies in New Zealand and Australia since 1995. I have been involved in the development of various baseline and preferred option reports within the PDP process, as well as drafting the provisions and writing the s32 report for the Residential Zone chapters.
- 2.3 I confirm that I have read the Code of Conduct for Expert Witnesses in the Environment Court Practice Note 2014 and that I have complied with it when preparing this report. 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.

3. Scope of report and topic overview

- 3.1 This report considers the submissions and further submissions that were received in relation to Contaminated Land and Hazardous Substances chapters of the PDP.
- 3.2 Recommendations are made to either retain provisions without amendment, or delete, add to or amend the provisions. All recommended amendments are shown by way of strikeout and underlining in **Appendix 2** to this Report. Footnoted references to a submitter number, submission point and the abbreviation for their title provide the scope for each recommended change. Where it is considered that an amendment may be appropriate but it would be beneficial to hear further evidence before making a final recommendation, this is made clear within the report.

4. Statutory requirements and planning framework

Resource Management Act 1991

- 4.1 The PDP must be prepared in accordance with the Council's functions under section 31 of the RMA; Part 2 of the RMA; the requirements of sections 74 and 75, and its obligation to prepare, and have particular regard to, an evaluation report under section 32 of the RMA, any further evaluation required by section 32AA of the RMA; any national policy statement, the New Zealand coastal policy statement, national planning standards; and any regulations¹. Regard is also to be given to the CRPS, any regional plan, district plans of adjacent territorial authorities, and the IMP.
- 4.2 As set out in the [‘Overview’ Section 32 Report](#), and [‘Overview’ s42a Report](#), there are a number of higher order planning documents and strategic plans that provide direction and guidance for the preparation and content of the PDP. These documents are discussed in more detail within this report where relevant to the assessment of submission points. This report also addresses any definitions that are specific to this topic, but otherwise relies on the s42A report that addresses definitions more broadly.
- 4.3 The assessment of submission points is made in the context of the Section 32 reports already undertaken with respect to this topic, being:
- [Hazardous Substances and Contaminated Land](#)
- 4.4 All recommended amendments to provisions since the initial s32 evaluation was undertaken must be documented in a subsequent s32AA evaluation and this has been undertaken as necessary within this report.

National Environment Standard for Assessing and Managing Contaminants to Soil to Protect Human Health (NESCS)

- 4.5 The NESCS applies to certain activities undertaken on ‘pieces of land’ on which any potentially contaminating activity on the Ministry for the Environment’s Hazardous Activities and Industries List (the HAIL) is occurring, has occurred, or is more likely than not to have occurred.
- 4.6 The NESCS provides a nationally consistent set of planning controls for contaminated land. It ensures that contaminated land is identified, assessed, and (if necessary) made safe for human activity, although it does not address environmental effects of contaminated land. The NESCS does not contain objectives or policies to guide decisions made under its rules. All territorial authorities are required to observe and enforce the requirements of the NESCS.

National Planning Standards

- 4.7 As set out in the [Overview s42A Report](#), the Planning Standards were introduced to improve the consistency of council plans and policy statements. The Planning Standards were gazetted and came into effect on 5 April 2019. The PDP must be prepared in accordance to the Planning Standards.

¹ Section 74 RMA

- 4.8 Section 7. District-wide Matters Standard specifies that, if provisions are included in District Plans to manage contaminated land are addressed, they must be located in the Contaminated Land chapter. Similarly, if provisions relating to hazardous substances are addressed, they must be located in a chapter titled Hazardous Substance. Both these chapters must be included in the District Wide section, under the Hazards and Risks heading.
- 4.9 Section 14. Definitions Standard specifies mandatory definitions to improve plan consistency across the country.

Other relevant legislation or regulations

- 4.10 The *Hazardous Substances and New Organisms Act 1996* (HSNO), the *Health and Safety at Work Act 2015* (HSW Act) and the *Health and Safety at Work (Hazardous Substances) Regulations 2017* provides the general framework for controlling hazardous substances during their entire life-cycle. The District Plan does not seek to duplicate the provisions of existing legislation but rather any risk of an adverse effect that remains after other industry controls and legislation (known as residual risk).

5. Procedural matters

- 5.1 At the time of writing this s42A report there have not been any pre-hearing conferences, clause 8AA meetings or expert witness conferencing in relation to submissions on this topic.
- 5.2 It was indicated in the Part 1 – Introduction and General Provisions s42A report that the proposed definition of ‘material infected by unwanted organisms’ sought by HortNZ² would be considered at the Ecosystems & Indigenous Biodiversity Chapter hearing. However, upon further consideration, this point is now to be considered in this hearing stream, along with the other provisions requested by HortNZ that relate to biosecurity matters.
- 5.3 Clause 16(2) 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. During the consideration of submissions, a spelling error was identified in the rule title for HAZS-R1. This correction has been documented as cl.16(2) amendment and identified by way of a footnote in this s42A report.

6. Consideration of submissions

Overview of submissions

- 6.1 There were 22 original submission points and five further submission points in relation to matters related to the Contaminated Land chapter.
- 6.2 There were 47 original submission points and 14 further submission points in relation to matters related to the Hazardous Substances chapter.

² DPR-0353.111 HortNZ

Structure of this report

- 6.3 This report follows the chapter format of the PDP, first discussing the submissions received on the Contaminated Land chapter, then the Hazardous Substances chapter. Within each section, relevant definitions are discussed first, then the specific provisions within the PDP. Finally, additional provisions requested by submitters in relation to issues raised that were not identified in the original s32 report are discussed and then submissions on the chapter as a whole.
- 6.4 The assessment of submissions generally follows the following format: Submission Information; Analysis; and Recommendation and Amendments. Where an amendment is recommended the applicable s32AA assessment will follow on from the Recommendations section for that issue, if required.

7. Contaminated Land

Introduction

- 7.1 This section responds to all the submission points relating to the Contaminated Land chapter of the PDP, including those definitions specifically used by this chapter.

Definitions

Contaminated Land

Submissions

- 7.2 One submission point was received in relation to the definition of ‘contaminated land’.

Submitter ID	Submitter Name	Submission Point	Position	Decision Requested
DPR-0383	Oil Companies	015	Support	Retain as notified

Analysis

- 7.3 The Oil Companies³ support of the definition as notified, which is an RMA term, is noted.

Recommendation

- 7.4 I recommend that the Hearings Panel retain the definition as notified.
- 7.5 It is recommended that the original submission point is accepted as shown in **Appendix 1**.

Potentially Contaminated Land

Submissions

- 7.6 Five submissions points and four further submission points were received in relation to the definition of ‘potentially contaminated land’.

³ DPR-0383.015 Oil Companies

Submitter ID	Submitter Name	Submission Point	Position	Decision Requested
DPR-0171	Eliot Sinclair	001	Oppose In Part	Delete as notified.
DPR-0353	HortNZ	065	Oppose	Delete as notified and rely on the NES for assessing and managing contaminants in soil.
<i>DPR-0171</i>	<i>Eliot Sinclair</i>	<i>FS001</i>	<i>Support</i>	<i>Allow submission point in full.</i>
DPR-0379	Jill Thomson	028	Oppose In Part	Amend part (b) of 'Potentially Contaminated Land'.
DPR-0383	Oil Companies	016	Support	Retain as notified
<i>DPR-0171</i>	<i>Eliot Sinclair</i>	<i>FS003</i>	<i>Oppose</i>	<i>Disallow submission point in full.</i>
DPR-0422	NCFF	072	Oppose	Delete as notified.
<i>DPR-0171</i>	<i>Eliot Sinclair</i>	<i>FS002</i>	<i>Support</i>	<i>Allow submission point in full.</i>
<i>DPR-0212</i>	<i>ESAI</i>	<i>FS020</i>	<i>Support</i>	<i>Allow in full</i>

Analysis

- 7.7 Eliot Sinclair⁴ seeks the deletion of the definition on the basis that the NESCS will apply if the land is considered a 'piece of land' under the NESCS. They consider that the proposed definition could infer that a Detailed Site Investigation (DSI) is expected, which is a higher and more costly requirement than what the NESCS requires.
- 7.8 HortNZ and NCFF⁵ seek the deletion of the definition on the basis that the inclusion of the link to Schedule 3 in the Canterbury Land and Water Regional Plan (CLWRP) would include any area where orcharding and farming activities may have been undertaken, even though the activity may not result in 'contaminated land'.
- 7.9 Having reviewed the s32 report, along with the various background reports, it is not clear why it was considered necessary to specifically define 'potentially contaminated land' in the PDP. Having further considered the definition, I consider that the two limbs of the definition appear merely to restate parts of the NESCS, albeit in a slightly different way. In this regard, part a. references cl. 7 of the NESCS but, rather than pointing to the Hazardous Activities and Industries List (HAIL) published by the Ministry for the Environment⁶, it points to Schedule 3 of the CLWRP, which references a HAIL updated in September 2007, and part b. of the definition references cl. 5(9) of the NESCS.
- 7.10 I note that no submitter has requested that the 'potentially contaminated land' wording in the CL-Overview or in CL-P1 be deleted. I consider that this phrasing can stand on its own, without the need for definition, and it doing so, the PDP will ensure that when a person wants to undertake certain activities, the obligation that the NESCS imposes to determine if land is potentially contaminated is recognised within the PDP. As such, I recommend that the submission points of Eliot Sinclair, HortNZ and NCFF be accepted, and that the definition be deleted.

⁴ DPR-0171.001 Eliot Sinclair

⁵ DPR-0353.065 HortNZ and DPR-0422.072 NCFF

⁶ Hazardous Activities and Industries List (HAIL) October 2011. <https://environment.govt.nz/assets/Publications/HAIL.pdf>

- 7.11 Jill Thomson⁷ seeks that part b. of the definition is clarified so that its meaning is clear. I recommend that the submission point be rejected in so far as I am recommending that the definition be deleted.
- 7.12 The Oil Companies⁸ support of the definition as notified is noted however, as I am recommending that the definition be deleted, I recommend that the submission point be rejected.

Recommendation and amendments

- 7.13 I recommend, for the reasons given above, that the Hearings Panel:
- a) delete the definition of 'potentially contaminated land', as shown in **Appendix 2**.
- 7.14 It is recommended that the original submission points and further submissions points are either accepted or rejected as shown in **Appendix 1**.
- 7.15 The scale of change does not require a s32AA evaluation as the deletion of the definition does not change the approach or scope of CL-P1.

Overview

Submissions

- 7.16 There was one submission point relating to the overview within the Contaminated Land chapter.

Submitter ID	Submitter Name	Submission Point	Position	Decision Requested
DPR-0383	Oil Companies	011	Support	Retain as notified

Analysis

- 7.17 The Oil Companies⁹ support of the content of the overview as notified is noted.

Recommendation

- 7.18 I recommend that the Hearings Panel retain the overview as notified.
- 7.19 It is recommended that the original submission point is accepted as shown in **Appendix 1**.

Objectives

Submissions

- 7.20 Three submission points were received in relation to CL-O1.

Submitter ID	Submitter Name	Submission Point	Position	Decision Requested
DPR-0260	CRC	015	Support	Retain as notified.

⁷ DPR-0379.028 Jill Thomson

⁸ DPR-0383.016 Oil Companies

⁹ DPR-0383.011 Oil Companies

Submitter ID	Submitter Name	Submission Point	Position	Decision Requested
DPR-0383	Oil Companies	012	Support In Part	Amend as follows: <u>Contaminated land is managed to protect human health and the environment are not compromised by the use of contaminated land.</u>
DPR-0448	NZDF	022	Support	Retain as notified.

Analysis

7.21 The Oil Companies¹⁰ seek an amendment to the objective such that it is more directive, requires protection of human health and the environment, and better aligns with CL-P1. I consider that CL-O1 as notified clearly articulates what is to be achieved, namely that people and communities' health is maintained when any use of contaminated land is proposed. I do not consider that the proposed amendment is necessary as CL-P1 utilises this wording and provides direction as to how this is to be achieved. Therefore I recommend that this submission point be rejected.

7.22 The support of CRC and NZDF¹¹ for the objective as notified is noted.

Recommendation and amendment

7.23 I recommend, for the reason given above, that the Hearings Panel, retain CL-O1 as notified.

7.24 It is recommended that the original submission points are either accepted or rejected as shown in **Appendix 1**.

Policies

Submissions

7.25 Six submission points were received in relation to the policies within the Contaminated Land chapter.

Submitter ID	Submitter Name	Submission Point	Plan Reference	Position	Decision Requested
DPR-0353	HortNZ	105	CL-P1	Oppose In Part	Amend as follows: Require any proposal for subdivision, development, or use of contaminated land or potentially contaminated land to apply a best practice approach to investigate the risks, and either remediate the contamination or manage activities on contaminated land to protect people and the environment, <u>as set out in the National Environmental Standard for assessing and managing</u>

¹⁰ DPR-0383.012 Oil Companies

¹¹ DPR-0260.015 CRC and DPR-0448.022 NZDF

Submitter ID	Submitter Name	Submission Point	Plan Reference	Position	Decision Requested
					<u>contaminants in soil to protect Human Health Regulations 2011.</u>
DPR-0383	Oil Companies	013	CL-P1	Support In Part	Amend as follows: Require any proposals for subdivision, development or use of contaminated land or potentially contaminated land to apply a best practice approach to investigate <u>investigation and management of the risks of and either remediate the contamination or manage activities on</u> contaminated land to protect people and the environment.
DPR-0422	NCFE	121	CL-P1	Oppose In Part	Amend as follows: Require any proposal for subdivision, development, or use of contaminated land or potentially contaminated land to apply a best practice approach to investigate the risks, and either remediate the contamination or manage activities on contaminated land to protect people and the environment <u>as set out in the National Environmental Standard for assessing and managing contaminants in soil to protect Human Health Regulations 2011.</u>
DPR-0446	Transpower	067	CL-P1	Support	Retain as notified
DPR-0448	NZDF	023	CL-P1	Support	Retain as notified
DPR-0448	NZDF	024	CL-P2	Support	Retain as notified

Analysis

- 7.26 HortNZ and NCFE¹² seek that CL-P1 is amended to include additional wording that specifically references the NESCS as the basis of required investigations. As the NESCS requires that every local authority and consent authority observe and enforce it to the extent that the authorities powers enable them to, I do not consider that there is a need to amend the policy to include specific reference to the NESCS. Therefore I recommend that these submissions be rejected.
- 7.27 The Oil Companies¹³ seek that CL-P1 is amended to recognise that remediation is one of a range of measures available for management of contaminated land, and therefore does not need to be separately identified. I consider that the two arms of the policy, being either the remediation of the contamination or the management of activities on contaminated land, to give rise to two different

¹² DPR-0353.105 HortNZ and DPR-0422.121 NCFE

¹³ DPR-0383.013 Oil Companies

responses which, in turn, deliver two quite distinct outcomes. As such, I consider that it is appropriate CL-P1 retains reference to both options. Therefore I recommend that this submission be rejected.

7.28 Transpower and NZDF's¹⁴ support of CL-P1 as notified is noted.

7.29 The support of the NZDF¹⁵ for CL-P2 as notified is noted.

Recommendation and amendment

7.30 I recommend, for the reason given above, that the Hearings Panel, retain CL-P1 and CL-P2 as notified.

7.31 It is recommended that the original submissions points are either accepted or rejected as shown in **Appendix 1**.

Requested Additional Provisions – Sharing of Information

Submissions

7.32 CRC seeks the inclusion of an additional policy to formalise the current sharing of information between the Council and CRC in relation to contaminated land.

Submitter ID	Submitter Name	Submission Point	Position	Decision Requested
DPR-0260	CRC	016	Support In Part	Insert as follows: <u>CL-P3: Facilitate an integrated and collaborative approach to the management of contaminated land by sharing contaminated land information held or discovered by the Selwyn Council with the Canterbury Regional Council.</u>
DPR-0383	Oil Companies	FS003	Support In Part	<i>While the Oil Companies support an integrated and collaborative approach between district and regional authorities in sharing contaminated land information, they consider this would be better framed as a method rather than a policy.</i>

Analysis

7.33 I consider that the relief CRC¹⁶ seeks does not provide any work for users of the PDP beyond itself and the Council, and is more appropriately a procedural matter for the parties. As the methods set out in Policy 17.3.4 of the CRPS states that local authorities should work together to consolidate

¹⁴ DPR-0446.067 Transpower and DPR-0448.023 NZDF

¹⁵ DPR-0448.024 NZDF

¹⁶ DPR-0260.016 CRC

information on a contaminated land register held by the CRC, I consider that this is already an obligation on the Council.

Recommendation

- 7.34 I recommend that, for the reasons given above, the Hearings Panel reject this submission point.
- 7.35 It is recommended that the original submission point and the further submission point are rejected as shown in **Appendix 1**.

Contaminated Land Chapter Generally

Submissions

- 7.36 Five submission points were received in relation to the Contaminated Land chapter in its entirety (all provisions).

Submitter ID	Submitter Name	Submission Point	Position	Decision Requested
DPR-0358	RWRL	146	Support	Retain as notified
DPR-0363	IRHL	145	Support	Retain as notified
DPR-0372	DHL	020	Support	Retain as notified
DPR-0374	RIHL	151	Support	Retain as notified
DPR-0384	RIDL	153	Support	Retain as notified

Analysis

- 7.37 RWRL, IRHL, DHL, RIHL and RIDL¹⁷ have submitted in support of all of the provisions in the Contaminated Land chapter as notified. While the support is noted, given that an amendment is recommended from the submission points discussed above, I recommend that those submissions points seeking retention of the chapter as notified be accepted in part. I do not consider that the amendment significantly alters the intent of the chapter as notified.

Recommendation

- 7.38 I recommend that the Hearings Panel accept these submission points in part on the basis that an amendment has been recommended.
- 7.39 It is recommended that the original submissions points are accepted in part as shown in **Appendix 1**.

8. Hazardous Substances

Introduction

- 8.1 This section responds to all the submission points relating to the Hazardous Substances Chapter of the PDP, including those definitions specifically used by this chapter.

¹⁷ DPR-0358.146 RWRL, DPR-0363.145 IRHL, DPR-0372.020 DHL, DPR-0374.151 RIHL, DPR-0384.153 RIDL

Definitions

Hazardous Substances

Submissions

- 8.2 One submission point was received in relation to the definition of 'hazardous substances'.

Submitter ID	Submitter Name	Submission Point	Position	Decision Requested
DPR-0383	Oil Companies	014	Support	Retain as notified

Analysis

- 8.3 The Oil Companies¹⁸ support of the definition, which is an RMA term, as notified is noted.

Recommendation

- 8.4 I recommend that the Hearings Panel retain the definition as notified.
- 8.5 It is recommended that the original submission point is accepted as shown in **Appendix 1**.

Major Hazard Facility

Submissions

- 8.6 Four submission points and three further submission points were received in relation to the definition of 'Major Hazard Facility'.

Submitter ID	Submitter Name	Submission Point	Position	Decision Requested
DPR-0353	HortNZ	053	Oppose In Part	Amend to provide a clearer definition of major hazard facility
DPR-0383	Oil Companies	FS002	Oppose	<i>The Oil Companies consider that reliance on the HSWA definition of MHF is clear and will help avoid duplication. In contrast, and particularly given an alternative definition is not proposed by the submitters, it is not possible to understand the implications of an alternative definition and the implications of the alternative proposed.</i>
DPR-0370	Fonterra	048	Oppose In Part	Amend as follows: means a facility that WorkSafe has designated as a lower tier major hazard facility or an upper tier major hazard facility under regulation 19 or 20 <u>but excludes dairy processing activities within the Dairy Processing Zone.</u>

¹⁸ DPR-0383.014 Oil Companies

Submitter ID	Submitter Name	Submission Point	Position	Decision Requested
DPR-0209	Manmeet Singh	FS780	Oppose In Part	Reject submission in part
DPR-0383	Oil Companies	010	Support	Retain as notified
DPR-0422	NCCF	063	Support In Part	Amend to provide a clearer definition of what constitutes a major hazard facility.
DPR-0383	Oil Companies	FS001	Oppose	<i>The Oil Companies consider that reliance on the HSWA definition of MHF is clear and will help avoid duplication. In contrast, and particularly given an alternative definition is not proposed by the submitters, it is not possible to understand the implications of an alternative definition and the implications of the alternative proposed.</i>

Analysis

- 8.7 The submissions of HortNZ and NCCF¹⁹ seek a clearer definition of a major hazard facility (MHF), one that is not dependent on a separate assessment under the *Health and Safety at Work (Major Hazard Facilities) Regulations 2016* (the Regulations). In this regard, I note that the determination of a MHF under the Regulations requires the consideration of various categories and volumes of specific hazardous substances which allows for the possibility of a wide variety of MHF. As such, I consider that it is appropriate to rely on this assessment so as to avoid duplication, or inconsistencies, in terms of what may constitute a MFH. I also note that neither submitter proposed an alternative definition for further submitters to contemplate and respond to. I therefore recommend that these submission points be rejected, however this position may change with the introduction of any further evidence by either submitter.
- 8.8 Fonterra²⁰ seek to exclude dairy processing activities within the Dairy Processing Zone from the proposed definition to account for the possibility that, while not currently designated as such, “...this could change in the future”. Fonterra notes that its Darfield site is not currently designated as a MHF and I assume that this means that it is not designated as such under the Regulations. I note that Part 6 of the Regulations provides a process for decisions under these Regulations to be reviewed and/or appealed. Therefore, I do not consider it is appropriate that the PDP seek to limit the scope of the Regulations, as an alternative means of relief is available to the submitter if needed. As such, I recommend that this submission point be rejected. I do note that Fonterra have sought an alternative relief to amending this definition. This is discussed in paragraphs 8.41 to 8.50 below.

¹⁹ DPR-0353.053 HortNZ and DPR-0422.063 NCCF

²⁰ DPR-0370.048 Fonterra

8.9 The original submission of the Oil Companies²¹ supporting the definition as notified is noted.

Recommendation

8.10 I recommend, for the reasons given above, that the Hearings Panel retain the definition as notified.

8.11 It is recommended that the original submission points and further submission points are accepted or rejected as shown in **Appendix 1**.

Residual Risk

Submissions

8.12 Two submission points were received in relation to the definition of 'residual risk'.

Submitter ID	Submitter Name	Submission Point	Position	Decision Requested
DPR-0353	HortNZ	067	Support	Retain as notified
DPR-0422	NCFF	076	Support	Retain as notified

Analysis

8.13 HortNZ and NCFF's²² support of the definition as notified is noted.

Recommendation

8.14 I recommend that the Hearings Panel retain the definition as notified.

8.15 It is recommended that the original submission points are accepted as shown in **Appendix 1**.

Overview

Submissions

Submitter ID	Submitter Name	Submission Point	Position	Decision Requested
DPR-0383	Oil Companies	001	Support	Retain as notified

Analysis

8.16 The Oil Companies²³ support of the content of the overview as notified is noted.

Recommendation

8.17 I recommend that the Hearings Panel retain the overview as notified.

8.18 It is recommended that the original submission point is accepted as shown in **Appendix 1**.

²¹ DPR-0383.010 Oil Companies

²² DPR-0353.067 HortNZ and DPR-0422.076 NCFF

²³ DPR-0383.001 Oil Companies

Objectives

Submissions

8.19 Five submission points and two further submission points were received in relation to HAZS-O1.

Submitter ID	Submitter Name	Submission Point	Position	Decision Requested
DPR-0215	Winstone Aggregates	034	Oppose In Part	Amend as follows: The benefits associated with activities involving the use, storage, disposal, and transportation of hazardous substances are recognised, while ensuring that risks to the environment and human health are minimised to <u>less than minor acceptable</u> levels.
DPR-0383	Oil Companies	FS004	Oppose	<i>A focus on acceptable levels of risk recognises that what is appropriate in one location may be inappropriate in another. A requirement that risk is less than minor does not recognise this and does not appropriately give effect to the RPS, and may restrict the potential for MHF, which may have effects that are not less than minor but will be acceptable. Further, the less than minor threshold is relevant to notification but not to evaluation under s104 of the RMA.</i>
DPR-0446	Transpower	FS014	Oppose	Disallow the submission.
DPR-0260	CRC	056	Support	Retain as notified.
DPR-0353	HortNZ	112	Support	Retain as notified
DPR-0383	Oil Companies	002	Support In Part	Amend as follows: The benefits associated with activities involving the use, storage, disposal and transportation of hazardous substances are recognised, while ensuring that risks to the environment and human health are <u>minimised managed</u> to acceptable levels.
DPR-0448	NZDF	031	Support	Retain as notified

Analysis

8.20 Winstone Aggregates²⁴ considers that the use of the term ‘acceptable’ is subjective and it is unclear how, and by whom acceptable risk is assessed. I consider that the use of ‘acceptable’ within the objective is appropriate as it allows for consideration that the level of risks can be different depending on a variety of factors, and that this may not have to be ‘less than minor’. I consider that

²⁴ DPR-0215.034 Winstone Aggregates

the HAZS policies provide sufficient guidance as to how acceptable risk is determined. I therefore recommend that this submission point be rejected.

- 8.21 The Oil Companies²⁵ seek that the objective be amended to require that risks are ‘managed’ rather than ‘minimised’ to acceptable levels.
- 8.22 I note that following the Strategic Directions hearing, the Hearings Panel²⁶ requested that the officer develop a potential definition for ‘minimise’, as it could have two different meanings – being to either ‘reduce an effect to the greatest extent’ or ‘reduce an effect by any extent’. In response to this request, a potential definition of ‘minimise’ has been proposed, being ‘*means to reduce an effect to the smallest extent practicable*’.
- 8.23 I consider that, even if ‘minimise’ remains undefined within the PDP, it is more directive than ‘manage’ and therefore better aligns with the obligations of the *Health and Safety at Work Act 2015* and the *Health and Safety at Work (Major Hazard Facilities) Regulations 2016*. Further, the HAZS policies provide direction as to how the minimisation of risks are to be achieved. Therefore I recommend that this submission point be rejected.
- 8.24 The support of CRC, HortNZ and NZDF²⁷ for the objective as notified is noted.

Recommendation and amendments

- 8.25 I recommend, for the reason given above, that the Hearings Panel retains HAZS-O1 as notified.
- 8.26 It is recommended that the original submission points are either accepted or rejected as shown in **Appendix 1**.

Policies

Submissions

- 8.27 There are four submission points and one further submission point relating to HASZ-P1, four submissions point in relation to HAZS-P2 and three submissions point each in relation to HAZS-P3 and HAZS-P4.

Submitter ID	Submitter Name	Submission Point	Plan Reference	Position	Decision Requested
DPR-0215	Winstone Aggregates	035	HAZS-P1	Oppose In Part	Amend to clarify the intent of policy.

²⁵ DPR-0383.002 Oil Companies

²⁶ https://www.selwyn.govt.nz/__data/assets/pdf_file/0007/494494/Right-of-Reply-Strategic-Directions.pdf

²⁷ DPR-0260.056 CRC, DPR-0353.112 HortNZ and DPR-0448.031 NZDF

Submitter ID	Submitter Name	Submission Point	Plan Reference	Position	Decision Requested
DPR-0383	Oil Companies	FS005	HAZS-P1	Oppose	<i>The proposed plan includes a definition of residual risk which the Oil Companies support. What is ultimately acceptable in a particular location will be affected by a range of factors. The Oil Companies consider that parties operating MHF will be well versed in managing risk, including understanding of international risk criteria that helps inform the same. In other instances, the Oil Companies anticipate zoning and HSNO will provide the key controls.</i>
DPR-0353	HortNZ	113	HAZS-P1	Support	Retain as notified
DPR-0383	Oil Companies	006	HAZS-P1	Support	Retain as notified
DPR-0448	NZDF	032	HAZS-P1	Support	Retain as notified
DPR-0260	CRC	057	HAZS-P2	Support	Retain as notified.
DPR-0353	HortNZ	114	HAZS-P2	Support	Retain as notified
DPR-0383	Oil Companies	007	HAZS-P2	Support	Retain as notified
DPR-0448	NZDF	033	HAZS-P2	Support	Retain as notified
DPR-0353	HortNZ	115	HAZS-P3	Support	Retain as notified
DPR-0383	Oil Companies	008	HAZS-P3	Support	Retain as notified
DPR-0448	NZDF	034	HAZS-P3	Support	Retain as notified
DPR-0353	HortNZ	116	HAZS-P4	Support	Retain as notified
DPR-0383	Oil Companies	009	HAZS-P4	Support	Retain as notified
DPR-0448	NZDF	035	HAZS-P4	Support	Retain as notified

Analysis

- 8.28 Winstone Aggregate²⁸ seeks clarification of the intent of the policy, particularly in relation to the use of the words ‘acceptable’ and ‘residual risk’. I consider that there are a range of factors that will determine what the acceptable level of residual risk is based on the specific of the proposal. In relation to any proposal for a discretionary or non-complying activity, consideration of the HAZS objectives and policies will aid in the assessment of any residual risk. I also note that the definition of ‘residual risk’ proposed has not been challenged by way of submission. Therefore I consider that the intent of HAZS-P1 as notified is sufficiently clear. This position may change with the introduction

²⁸ DPR-0215.035 Winstone Aggregates

of any further evidence by the submitter however, at this time I recommend that this submission point be rejected.

- 8.29 The support of HortNZ, the Oil Companies and NZDF²⁹ for HAZS-P1 as notified is noted.
- 8.30 The support of CRC, HortNZ, the Oil Companies and NZDF³⁰ for HAZS-P2 as notified is noted.
- 8.31 The support of HortNZ, the Oil Companies and NZDF³¹ for HAZS-P3 as notified is noted.
- 8.32 The support of HortNZ, the Oil Companies and NZDF³² for HAZS-P4 as notified is noted.

Recommendation

- 8.33 I recommend that, for the reasons discussed above, the Hearings Panel retain HAZS-P1, HAZS-P2, HAZS-P3 and HAZS-P4 as notified.
- 8.34 It is recommended that the original submission points and further submission point are accepted or rejected as shown in **Appendix 1**.

Rules

Submissions

- 8.35 There are four submission points relating to HASZ-R1, and two submissions point each in relation to HAZS-R2 and HAZS-R3.

Submitter ID	Submitter Name	Submission Point	Plan Reference	Position	Decision Requested
DPR-0215	Winstone Aggregates	036	HAZS-R1	Support	Retain as notified
DPR-0353	HortNZ	118	HAZS-R1	Support	Retain as notified
DPR-0383	Oil Companies	003	HAZS-R1	Support	Retain as notified
DPR-0448	NZDF	036	HAZS-R1	Support	Retain as notified
DPR-0383	Oil Companies	004	HAZS-R2	Support	Retain as notified
DPR-0448	NZDF	037	HAZS-R2	Support	Retain as notified
DPR-0383	Oil Companies	005	HAZS-R3	Support	Retain as notified
DPR-0448	NZDF	038	HAZS-R3	Support	Retain as notified

Analysis

- 8.36 The support of Winstone Aggregate, HortNZ, the Oil Companies and NZDF³³ for HAZS-R1 as notified is noted.

²⁹ DPR-0353.113 HortNZ, DPR-0383.006 Oil Companies and DPR-0448.032 NZDF

³⁰ DPR-0260.057 CRC, DPR-0353.114 HortNZ, DPR-0383.007 Oil Companies and DPR-0448.033 NZDF

³¹ DPR-0353.115 HortNZ, DPR-0383.008 Oil Companies and DPR-0448.034 NZDF

³² DPR-0353.116 HortNZ, DPR-0383.009 Oil Companies and DPR-0448.035 NZDF

³³ DPR-0215.036 Winstone Aggregates, DPR-0353.118 HortNZ, DPR-0383.003 Oil Companies and DPR-0448.036 NZDF

- 8.37 The support of the Oil Companies and NZDF³⁴ for HAZS-R2 as notified is noted.
- 8.38 The support of the Oil Companies and NZDF³⁵ for HAZS-R3 as notified is noted.

Recommendation

- 8.39 I recommend that the Hearings Panel retain HAZS-R1, HAZS-R2 and HAZS-R3 as notified.
- 8.40 It is recommended that submission is accepted as shown in **Appendix 1**.

Requested Additional Provision – Exclusion of Dairy Processing Activities

- 8.41 As an alternative to amending the definition of ‘major hazard facility’, Fonterra seek the insertion of a new rule that will enable MHF in the Dairy Processing Zone as a permitted activity. While this submission point was identified as a new provision, I consider that what has been requested is more appropriately an amendment to HAZS-R2.

Submitter ID	Submitter Name	Submission Point	Position	Decision Requested
DPR-0370	Fonterra	049	Neither Support Nor Oppose	Amend as follows: <u>DPZ–Activity status: PER</u>
DPR-0209	Manmeet Singh	FS781	Oppose In Part	Reject submission in part

Analysis

- 8.42 HAZS-R2 provides for MHF as a discretionary activity where the facility is within the GIZ and non-complying in any other zone. In analysing this submission point, I consider that there are two aspects to be considered. Firstly, are the activities in the DPZ generally consistent with the activities in the GIZ and secondly, is the activity status proposed appropriate?
- 8.43 In addressing the first question, the activities within the DPZ fall within the ambit of the definition of industrial activities, albeit with a more defined focus on dairy processing activities³⁶. Further, the potential effects (amenity, visual, landscape, transport (road and rail), noise etc.) of the activities in the DPZ are consistent with the potential effects of activities within the GIZ. Therefore, I consider that the likely impacts of a MHF in a DPZ are likely to be similar to those anticipated in a GIZ. However, as MHF have the potential to adversely affect surrounding properties, I do not consider that it is appropriate that these be a permitted activity in the DPZ. Rather, consistent with the approach within the GIZ, I consider that a discretionary activity status is appropriate, to allow for the consideration of the potential impact of MHF that are not managed through other instruments (the residual risk). I therefore recommend that the submission point is accepted in part.

³⁴ DPR-0383.004 Oil Companies and DPR-0448.037 NZDF

³⁵ DPR-0383.005 Oil Companies and DPR-0448.038 NZDF

³⁶ DPZ-R1 identifies dairy processing activities as any activity that is the processing, testing, storage, handling, packaging or distribution of milk, dairy products, or dairy processing related by-products.

Recommendation

8.44 I recommend, for the reasons given above, that the Hearings Panel:

- a) amend HAZS-R2 as shown in **Appendix 2**, to allow for MHF within the DPZ, but in a manner consistent with the approach taken in the PDP as notified.

8.45 It is recommended that original submission point is accepted in part as shown in **Appendix 1**.

Section 32AA evaluation

8.46 The following points evaluate the recommended changes under Section 32AA of the RMA.

Effectiveness and efficiency

8.47 Amending HAZS-R2 to allow for MHF in the DPZ as a discretionary activity, rather than a non-complying activity, is more effective and efficient compared to the provisions as notified and gives effect to the objectives and policies in the PDP. The amendment accounts for the similarities between the DPZ and the GIZ, whilst still retaining consistency with the provision as notified.

Costs and benefits

8.48 The benefit of the amendment is that it retains appropriate scrutiny of the merits of any proposal for a MHF in the DPZ. The costs to an applicant are also likely to be less for a discretionary activity resource consent application, compared to a non-complying resource consent.

Risk of acting or not acting

8.49 The risk of not acting would be that a non-complying activity could foreclose what might otherwise be an appropriate proposal.

Conclusion as to the most appropriate option

8.50 The amended rule assists in achieving the HAZS objectives and policies and provides for MHF in the DPZ whilst ensuring that any potential effects are considered through a resource consent process.

Requested Additional Provisions – Management of Biosecurity Risk

8.51 HortNZ seek the inclusion in the PDP of a suite of provisions to manage biosecurity risks and enable disposal of infected material and treatment of infected areas.

Submitter ID	Submitter Name	Submission Point	Position	Decision Requested
DPR-0353	HortNZ	111	Support	Insert as follows: <u>Material infected by unwanted organisms: means material infected by unwanted organisms as declared by MPI Chief Technical Officer or an emergency declared by the Minister under the Biosecurity Act 1993.</u>
DPR-0142	NZ Pork	FS027	Support	Allow in full
DPR-0407	Forest & Bird	FS476	Oppose In Part	Reject the submission
DPR-0407	Forest & Bird	FS486	Oppose	Reject the submission

Submitter ID	Submitter Name	Submission Point	Position	Decision Requested
DPR-0353	HortNZ	117	Support In Part	Insert as follows: <u>Biosecurity risk: Enable the removal and destruction of material infected by unwanted organisms that are being managed as part of Biosecurity response under the Biosecurity Act 1993.</u>
DPR-0407	Forest & Bird	FS478	Oppose In Part	Reject the submission
DPR-0353	HortNZ	119	Support In Part	Insert a new rule to provide for the removal and burying of infected material for biosecurity purposes as a permitted activity.
DPR-0407	Forest & Bird	FS479	Oppose In Part	Reject the submission

Analysis

- 8.52 HortNZ³⁷ suggests that, based on previous experiences, there is a gap in the legislative framework that means that *“district plans can unintentionally be regulatory hurdles to rapid response through provisions such as limiting earthworks for burying infected material or clearance of infected vegetation”*. Therefore they have requested that *“exclusions be provided for within the policy and planning framework which allow for the clearance of any vegetation (including indigenous and that of significance) in the event of a biosecurity emergency declared under the Biosecurity Act or by a declaration of a Chief Technical Officer”*.
- 8.53 My reading of the *Biosecurity Act 1993* is that, where an emergency is declared by the Governor-General on the recommendation of a responsible Minister, actions are exempted from the RMA, therefore no district plan rule compliance is required. However this only applies for the duration of the Minister’s exemption, after which the provisions of the RMA apply to any action taken, and any adverse effects, to the same extent as those provisions would have applied but for the exemption³⁸. In other situations, a Chief Technical Officer can notify the Ministry of Primary Industries Director-General about an unwanted organism and require that this be responded to, but in this circumstance no exemption mechanisms apply and any biosecurity response would require that all district plan rules be met regarding the clearance or disposal of infected material, and resource consents be required for any actions that go beyond what the district plan permits. Given the urgency required in such a situation, the submitter considers that it is not practical to have to obtain resource consent.
- 8.54 Therefore, HortNZ seek the inclusion of a definition of ‘materials infected by unwanted organisms’³⁹, and a specific policy⁴⁰. HortNZ has also requested that a rule⁴¹ be included to provide for the removal

³⁷ DPR-0353 HortNZ

³⁸ S7A Biosecurity Act 1993

³⁹ DPR-0353.111 HortNZ

⁴⁰ DPR-0353.117 HortNZ

⁴¹ DPR-0353.119 HortNZ

and burying of infected material for biosecurity purposes as a permitted activity to enable a rapid response to biosecurity incursions.

- 8.55 I consider that it is appropriate that the suite of provisions sought by HortNZ are incorporated into the PDP, and that they are best suited within the Hazardous Substances chapter, as opposed to any other chapter, such as the Earthworks Chapter or the General Rural Zone Chapter as the relief sought is more than earthworks, and could be required in more than the rural environment.
- 8.56 I note that the submitter has not sought to either amend HAZS-O1 or to include a further objective within the PDP to address their biosecurity concerns specifically. As notified, HAZS-O1 seeks to recognise the benefits of activities involving the disposal of hazardous substances. Hazardous substances are defined as including, but not limited to, any substance defined in section 2 of the *Hazardous Substances and New Organisms Act 1996* as a hazardous substance. The *Biosecurity Act 1993* defines an unwanted organism as any organism that a chief technical officer believes is capable or potentially capable of causing unwanted harm to any natural and physical resources or human health and includes any organism specified in Schedule 2 of the *Hazardous Substances and New Organisms Act 1996*. Therefore I consider that there are linkages between the various legislation and the PDP, and that HAZS-O1 as notified provides sufficient support for the requested policy. I invite the submitter to provide further comment on this if they consider it necessary.
- 8.57 I consider that the definition proposed by HortNZ clearly expresses what can be considered to be material infected by unwanted organisms, which in turn will limit the scope of any subsequent activities. I further consider that the policy proposed by HortNZ to be clear and directive. I therefore recommend that these submission points be accepted.
- 8.58 In terms of the burying of infected material, I acknowledge that the Earthworks chapter (EW-R2 and EW-REQ1) currently provides for volumes of earthworks to be undertaken as a permitted activity within the various zones within the PDP. I also acknowledge that vegetation clearance is permitted within the PDP where this does not involve indigenous vegetation. Therefore, the inclusion of an additional rule within the PDP could be seen to be duplication between chapters. However I consider that the inclusion of a specific suite of provisions would provide a clear line of sight between the reason for the activity and any necessary actions taken in this regard, making it clear that these activities are permitted where it is necessary to respond rapidly to a biosecurity incursion, as declared either by an MPI Chief Technical Officer or by the Minister under the *Biosecurity Act 1993*. This is particularly relevant as EIB-P4⁴² and EIB-P5⁴³ both seek to avoid vegetation clearance where doing so would affect indigenous biodiversity values.

⁴² EIB-P4: *Avoid the clearance of indigenous vegetation, and any earthworks or plantation forestry within scheduled Significant Natural Areas, and those other areas that meet the criteria set out in EIB-SCHED1, where the activity would adversely affect indigenous biodiversity values.*

⁴³ EIB-P5: *Avoid the clearance of vegetation and earthworks, where these activities would adversely affect indigenous biodiversity values relating to specified indigenous species that have been identified as being of ecological significance.*

- 8.59 I recommend that this submission point be accepted. However, as reflected in the rule proposed, consideration should be given to the location of earthworks in terms of avoiding areas of indigenous vegetation as well as considering the effect of earthworks in relation to natural hazards.
- 8.60 I note that the Ecosystems and Indigenous Biodiversity (EIB-R1) and the Activities on the Surface of Water (ASW-R1) chapters currently address activities undertaken in relation to biosecurity work. I do not consider that a consequential amendment is required to ASW-R1 however I recommend that minor consequential amendments be made to EIB-R1, to ensure consistency within the PDP in providing for activities required to enable a rapid response to biosecurity incursions. These amendments should be considered in relation to any submissions on the EIB rules at the time of that hearing⁴⁴.

Recommendations and amendments

- 8.61 I recommend, for the reasons given above, that the Hearings Panel:
- b) Insert a definition for *materials infected by unwanted organism*, HAZS-P5, and HAZS-R4, and a consequential amendment to EIB-R1 as shown in **Appendix 2**, to provide a framework within the PDP which allows for a rapid response in the event of a biosecurity emergency declared under the Biosecurity Act or by a declaration by the MPI Chief Technical Officer.
- 8.62 It is recommended that submissions and further submissions are either accepted, accepted in part or rejected as shown in **Appendix 1**.

Section 32AA evaluation

- 8.63 The following points evaluate the recommended changes under Section 32AA of the RMA.

Effectiveness and efficiency

- 8.64 The proposed suite of provisions will ensure any necessary earthworks or vegetation clearance can be taken rapidly in the event of a biosecurity incursion. This is considered to be more effective and efficient compared to the provisions as notified, by making it clearer that the activity would be permitted, even if compliance with earthworks and vegetation clearance rules was otherwise achieved.

Costs and benefits

- 8.65 The benefits of providing for the management of biosecurity risks outweigh the potential costs associated with any time delays and fees associated with obtaining resource consent to undertake activities in response to the incursion.

Risk of acting or not acting

- 8.66 The risk of not acting would be that there could be delays in the response to a biosecurity incursion, which may increase the extent and spread of that incursion.

⁴⁴ The Ecosystems and Indigenous Biodiversity hearing is currently scheduled for May 2022.

Conclusion as to the most appropriate option

- 8.67 The inclusion of the proposed definition and provisions, including consequential amendments, would better achieve HAZS-O1 and are more appropriate compared to the PDP as notified as they allow for an immediate response to a biosecurity incursion that may adversely affect the productivity of the rural sector or the natural environment.

Requested Additional Provisions – Identification of Major Hazard Facilities

- 8.68 CRC seeks the identification of major hazard facilities within the PDP.

Submitter ID	Submitter Name	Submission Point	Position	Decision Requested
DPR-0260	CRC	058	Support In Part	Identify major hazard facilities that are located within the district in the district plan.
DPR-0260	CRC	075	Support In Part	Identify the Major Hazard Facilities are that are located within the district through the district plan.
DPR-0370	Fonterra	FS009	Oppose In Part	Exclude Fonterra's Darfield site from any map of Major Hazard Facilities

Analysis

- 8.69 I do not consider that it is either effective or efficient to identify, either by way of mapping within ePlan or including by way of a schedule, major hazard facilities within the PDP. To do so would require a Schedule 1 process to be followed any time such a facility either established or disestablished within the district, which I do not consider to be efficient. Rather, I consider that the relief sought can be met outside of the PDP, such as currently occurs, with Canterbury Maps now including a layer that identified these facilities. Similarly, the Council can show, and make available, this information on its own GIS system, which I consider would be more efficient and effective.

Recommendation

- 8.70 I recommend, for the reasons given above, that the original submission points and the further submission point are rejected as shown in **Appendix 1**.

Hazardous Substances Chapter Generally

Submissions

- 8.71 Six submission points, and one further submission point, were received in relation to the Hazardous Substances chapter in its entirety (all provisions).

Submitter ID	Submitter Name	Submission Point	Position	Decision Requested
DPR-0205	Lincoln University	037	Support	Retain as notified.
DPR-0213	Plant and Food and Landcare	021	Support	Retain as notified
DPR-0422	NCFF	FS089	Support	Federated Farmers considers the points raised and amendments sought have merit.
DPR-0358	RWRL	183	Support	Retain as notified

Submitter ID	Submitter Name	Submission Point	Position	Decision Requested
DPR-0363	IRHL	182	Support	Retain as notified
DPR-0374	RIHL	188	Support	Retain as notified
DPR-0384	RIDL	190	Support	Retain as notified

Analysis

- 8.72 Lincoln University, Plant and Food and Landcare, RWRL, IRHL, RIHL and RIDL⁴⁵ have submitted in support of all of the provisions in the Hazardous Substances chapter as notified. While the support is noted, given that amendments are recommended from the submission points discussed above, I recommend that those submissions points seeking retention of the chapter as notified be accepted in part. I do not consider that any of the amendments significantly alter the intent of the chapter as notified.

Recommendation

- 8.73 I recommend that the Hearings Panel accept these submission points in part on the basis that amendments to the content of the Hazardous Substances chapter have been recommended.
- 8.74 It is recommended that the submissions are accepted in part as shown in **Appendix 1**.

9. Conclusion

- 9.1 After considering the submissions and further submissions received in relation to the Hazardous Substances and Contaminated Land chapters of the PDP, I recommend that these chapters be amended to the extent detailed in the preceding sections of this report and as set out in Appendix 2. I further recommend that those submissions and further submissions that support the provisions as notified, or that request the recommend changes, be accepted in whole or in part, and that all other submissions be rejected.
- 9.2 For the reasons set out throughout this report, I consider that the amended provisions will be efficient and effective in achieving the purpose of the RMA, the relevant objectives of this plan and other relevant statutory documents.

⁴⁵ DPR-0205.037 Lincoln University, DPR-0213.021 Plant and Food and Landcare, DPR-0358.183 RWRL, DPR-0363.182 IRHL, DPR-0374.188 RIHL and DPR-0384.190 RIDL