
OFFICER'S RESPONSE TO QUESTIONS FROM THE HEARINGS PANEL

DATE: 5 October 2021

HEARING: Contaminated Land and Hazardous Substances

HEARING DATE: 11 October 2021

PREPARED BY: Jocelyn Lewes – Strategy & Policy Planner

Introduction

The purpose of this report is to provide a written response to the questions posed by the Hearings Panel on the s42A report for Contaminated Land and Hazardous Substances.

Questions and Answers

| Paragraph or Plan reference | Question from the Hearings Panel |
|-----------------------------|---|
| 7.32 | <p>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.</p> <p>The S42A author rejects this request stating '<i>...the relief CRC 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 information on a contaminated land register held by the CRC, I consider that this is already an obligation on the Council.</i>'</p> <p>While we might accept the reasons given by the S42A author that a policy may be unnecessary, does the author agree that if a reference is included in the Plan that confirms an integrated and collaborative approach is occurring between the regional and district council for the management of contaminated land, it would reassure and give confidence to plan users?</p> |
| Officer response: | <p><i>No. I retain the view that the proposed policy provides no work for plan users generally, and that there are existing procedures in place outside of the PDP that manage the approach requested by the submitter. I further consider that the submission point is more a method, than a policy. The approach taken in the preparation of the PDP has been to streamline the contents, and as such it was decided that there would be no methods in the PDP, other than rules.</i></p> |
| 8.23 | <p>Can you please identify which sections of the Act and Regulations you are referring to.</p> |
| Officer response: | <p><i>The purpose of the <u>Hazardous Substances and New Organisms Act 1996</u> is to protect the environment, and the health and safety of people and communities, by preventing or managing the adverse effects of hazardous substances and new organisms.</i></p> |

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| | <p><i>However, as set out in the chapter overview, since December 2017, the rules around managing hazardous substances that affect human health and safety in the workplace have been transferred from the HSNO regime to the <u>Health and Safety at Work Act 2015</u> (HSW Act) with these rules given effect to within <u>the Health and Safety at Work (Hazardous Substances) Regulations 2017</u>.</i></p> <p><i>Acknowledging that I am not qualified to speak to the specifics of the legislation, a word search of the HSW Act and the Regulations shows that any reference to manage is used in the context of a person who controls a workplace, or fixtures, fittings or plant within the workplace, rather than in relation risk. However, the following sections and schedules refer to eliminating or minimising risk.</i></p> <p><u>Health and Safety at Work Act 2015</u></p> <ul style="list-style-type: none"> <i>• s3 Purpose</i> <i>• s22 Meaning of reasonably practicable</i> <i>• s30 Management of risks</i> <i>• s44 Duty of officers</i> <i>• s60 When engagement is required</i> <i>• s211 Regulations relating to health and safety.</i> <p><u>Health and Safety at Work (Major Hazard Facilities) Regulations 2016</u></p> <ul style="list-style-type: none"> <i>• s25 Prescribed requirements for WorkSafe granting exemption</i> <i>• s30 Duty to implement control measures</i> <i>• s35 Duty to undertake ongoing review</i> <i>• s67 Duty to notify local community and local authority in event of major incident</i> <i>• Sch 5 Requirements of safety management system of major hazard facility</i> <i>• Sch 6 Information required in design notice for upper tier major hazard facility</i> <i>• Sch 7 Information required in safety case for upper tier major hazard facility</i> |
| 8.28 | The PDP does not appear to contain specific assessment matters – if that is the case would the relevant assessment matters for a resource consent triggered by PDP rules 1- 4 be solely in terms of a consideration of the HAZS objectives and policies. |
| Officer response: | Yes. |
| 8.58 | Is the location of any buried infected material recorded on map overlays for future reference? |
| Officer response: | <p><i>As proposed in the s42A report, the recording of locations of buried infected materials was not consider, or required. Following further consideration, I recommend that HAZS-R4A ,as proposed in Appendix 2 to the s42A report, be amended, to require that the location of any such earthworks be notified to Council , along with details of the nature of the material buried and any on-going management requirements, as set out at the end of this report.</i></p> |

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| 8.59 | You have not discussed impacts on other sensitive environments such as outstanding natural features and landscapes. Can you please comment on the acceptability of this proposed approach in these locations. |
| Officer response: | <i>Following further discussions with the relevant topic leads, I acknowledge that additional consideration is required of the appropriateness of earthworks in other sensitive environments, such as outstanding natural landscapes, sites and areas of significance to Maori and the coastal environment. As such, I recommend that HAZS-R4, as proposed in Appendix 2 to the s42A report, be amended, as set out below.</i> |
| 8.69 | Is there any benefit to the plan users in being able to readily see (i.e. by a Map or a Schedule) where the Major Hazard Facilities are located? |
| Officer response: | <i>I consider that there is little benefit to plan users being able to readily see where Major Hazard Facilities are located within the District within the District Plan as this information is currently readily available either via the WorkSafe website or Canterbury maps. https://ecan.maps.arcgis.com/apps/mapviewer/index.html?layers=f50bc915413840ec9486f0cd350631a2 I consider that these platforms, in addition to Council's own GIS system, to be more up to date at any given time, than what a map or schedule in the District Plan may be.</i> |

Subsequent Changes to Appendix 2: Recommended amendments

The following changes are proposed to Appendix 2: Recommended Amendments in response to the Hearing Panels questions.

Original amendments were identified by way of underline or strikethrough. Double underlining has been used to identify defined terms that were proposed in the s42A report.

Additional amendments proposed in response to the Hearing Panels questions continue the above identification but are also shown in [blue text](#).

| HAZS-Policies | |
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| <u>HAZS-P5</u> ¹ | <u>Enable the removal and destruction of material infected by unwanted organisms that are being managed as part of Bbiosecurity response under the Biosecurity Act 1993.</u> |

[Grammatical amendment proposed to removed inappropriate capitalization]

| HAZS-Rules | | | |
|--|---|--|--|
| <u>HAZS-R4</u> ² | <u>Materials Infected by Unwanted Organisms</u> | | |
| <u>All Zones</u> | <table> <tr> <td> <u>Activity Status: PER</u> <u>1. Earthworks necessary for the burying of material infected by unwanted organisms.</u> <u>Where:</u> <u>a.-The earthworks:</u> <u>i. do not involve indigenous vegetation clearance;</u> <u>ii. are outside of an area identified in SASM-SCHED1;</u> <u>iii. are outside of the Coastal Environment Overlay;</u> <u>iv. are outside of the Significant Natural Areas Overlay; and</u> <u>b. Within 5 working days of the completion of the works, the Council's Chief Executive is notified in writing by the landowner or their representative of:</u> <u>i. the specific location and extent of any earthworks necessary of the burying of material infected by unwanted organisms;</u> <u>ii. the nature of the material infected by unwanted organisms; and</u> </td><td> <u>Activity status when compliance not achieved:</u> <u>2. When compliance with HAZS-R4.1.a is not achieved: DIS</u> <u>3. When compliance with HAZS-R4.1.b is not achieved:</u> <u>Refer to SASM-R2</u> <u>4. When compliance with HAZS-R4.1.c is not achieved:</u> <u>Refer to CE-R5</u> <u>4. When compliance with HAZS-R4.1.d is not achieved:</u> <u>Refer to EIB-R2</u> <u>5. When compliance with any rule requirement listed in this rule is not achieved: Refer to NH Rule Requirements the relevant rule requirement</u> </td></tr> </table> | <u>Activity Status: PER</u> <u>1. Earthworks necessary for the burying of material infected by unwanted organisms.</u> <u>Where:</u> <u>a.-The earthworks:</u> <u>i. do not involve indigenous vegetation clearance;</u> <u>ii. are outside of an area identified in SASM-SCHED1;</u> <u>iii. are outside of the Coastal Environment Overlay;</u> <u>iv. are outside of the Significant Natural Areas Overlay; and</u> <u>b. Within 5 working days of the completion of the works, the Council's Chief Executive is notified in writing by the landowner or their representative of:</u> <u>i. the specific location and extent of any earthworks necessary of the burying of material infected by unwanted organisms;</u> <u>ii. the nature of the material infected by unwanted organisms; and</u> | <u>Activity status when compliance not achieved:</u> <u>2. When compliance with HAZS-R4.1.a is not achieved: DIS</u> <u>3. When compliance with HAZS-R4.1.b is not achieved:</u> <u>Refer to SASM-R2</u> <u>4. When compliance with HAZS-R4.1.c is not achieved:</u> <u>Refer to CE-R5</u> <u>4. When compliance with HAZS-R4.1.d is not achieved:</u> <u>Refer to EIB-R2</u> <u>5. When compliance with any rule requirement listed in this rule is not achieved: Refer to NH Rule Requirements the relevant rule requirement</u> |
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¹ DPR-0353.117 HortNZ

² DPR-0353.0119 HortNZ

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| | <p>iii. any ongoing management requirements.</p> <p>And where the activity complies with the following rule requirements:</p> <p>NH-REQ4 Natural Hazards and Earthworks NFL-REQ9 Volume and Area of Earthworks NATC-REQ1 Setback from Surface Water Bodies – Earthworks and Earthworks Stockpiles</p> | |
| All Zones | <p>Activity status: PER</p> <p>4. Vegetation clearance necessary for the clearance of <u>material infected by unwanted organisms</u></p> <p>Where:</p> <p>a. The activity does not involve indigenous vegetation clearance.</p> | <p>Activity status when compliance not achieved:</p> <p>5. When compliance with HAZS-R4.1.a is not achieved: Refer EIB-R1</p> |

| Consequential Amendments – EIB-R1 | | |
|--|---|-----|
| EIB-R1 | Indigenous Vegetation Clearance and Earthworks | |
| CMUZ DPZ GRAZ GIZ KNOZ PORTZ RESZ TEZ SKIZ | <p>Activity Status: PER</p> <p>1. Indigenous vegetation clearance</p> <p>Where:</p> <p>...</p> <p>e. the indigenous vegetation clearance is necessary for the clearance of <u>material infected by unwanted organisms</u>³</p> | ... |

³ Consequential Amendments following DPR-0353.0119 HortNZ

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| <p>GRUZ MPZ EIB Management Overlay</p> | <p>Activity status: PER</p> <p>4. Indigenous vegetation clearance</p> <p>Where:</p> <p>The works are:</p> <p>...</p> <p>k. necessary in the course of removing pest plants and pest animals in accordance with any regional pest management plan, the Biosecurity Act 1993 or <u>for the clearance of material infected by unwanted organisms</u>⁴.</p> | <p>...</p> |
| <p>EIB Significant Natural Areas Overlay</p> | <p>Activity status: PER</p> <p>6. Indigenous vegetation clearance within a Significant Natural Area identified on the Planning Maps and listed in EIB-SCHED4</p> <p>Where:</p> <p>The works are:</p> <p><u>g. indigenous vegetation clearance that is necessary for the clearance of material infected by unwanted organisms</u>⁵</p> | <p>...</p> |

⁴ Consequential Amendments following DPR-0353.0119 HortNZ

⁵ Consequential Amendments following DPR-0353.0119 HortNZ