

***Proposed Wairarapa Combined District Plan***  
**Decision Report pursuant to Clause 10 of the First  
Schedule  
of the Resource Management Act 1991**

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**Subject: Chapter 15 - Hazardous Substances**

**In Reference to:**

- ***Hazardous Substances Provisions 15.1 – 15.4***
- ***District Wide Rules 21.1.19, 21.2.2, 21.3.4 and 21.4(k)***
- ***Assessment Criteria 22.1.13 – 22.1.14***
- ***Appendices 2 and 3***

## **15.1 Introduction**

### **Submission Summary**

<b>Submitter Number</b>	<b>Submitter Name</b>	<b>Further Submitter Name and Number</b>	<b>Further Submission Support/Oppose</b>
522.31	Planning Departments of Masterton, Carterton and South Wairarapa District Councils	FS103 Windy Peak Trust	Oppose
526.60	Wellington Regional Council	-	-
498.8	Wairarapa Public Health	-	-

### **Discussion**

The **Planning Departments of Masterton, Carterton and South Wairarapa District Councils** (522.31) seek that the description of a 'hazardous facility' in the first sentence of the third paragraph of the Introduction be revised to a more accurate description. **Windy Peak Trust** (FS103) oppose this submission.

**Greater Wellington Regional Council** (526.60) seek that the Introduction be amended to better explain the overlapping functions of regional councils and territorial authorities for

hazardous substances outlined in the Resource Management Act, and how these functions are allocated in the Regional Policy Statement (RPS). The allocation of responsibilities in the RPS may be changed in the next version but this is not likely to be proposed before October 2007. Paragraph 5 of the Introduction refers to the Regional Discharges to Land Plan, but its title is the Regional Plan for Discharges to Land. Paragraph 7 of the Introduction addresses the issue of contaminated sites, and the submitter contends it does not adequately describe the role that territorial authorities have in managing contaminated land.

**Wairarapa Public Health** (498.8) request recognition of them as an agency involved in managing hazardous substances.

## Evidence Heard

**Greater Wellington Regional Council** (526.60) spoke in support of the Section 42A report recommendation for the amendments to 15.1 Introduction and acceptance of their submission.

## Commissioners' Deliberations

The Commissioners note the support from some submitters in respect of the recommended amendments. The Commissioners consider the amendments better clarify the term "hazardous facility" and the issues for managing hazardous substances and contaminated sites, and the functions of regional and territorial authorities.

With respect to the submission by Wairarapa Public Health, the Commissioners concur with the Section 42A Report that under Section 31(1)(b) of the Resource Management Act, territorial authorities are responsible for managing hazardous substances. While Wairarapa Public Health are an agency who has a specific role in managing hazardous substances, in terms of the overall role, this falls on the District Councils. Therefore, amendments to the Introduction as requested by this submitter are not supported.

## Decision: 15.1 Introduction

Submission Reference:

522.31 Accept  
FS 103 Reject

526.60 Accept  
498.8 Reject

## Decision Amendment: 15.1 Introduction

Amend the first sentence of the third paragraph of 15.1 as follows:

***The term ~~A site where hazardous substances are used~~ is generally called a hazardous facility is used to describe site-specific activities which involve the use and/or storage of hazardous substances. Hazardous facilities.....***

Add the following text to the end of paragraph 1 of 15.1 as follows:

***.....effects from hazardous substances. The Act requires Regional Policy Statements to state who has land use responsibilities for managing the effects of hazardous substances. The Regional Policy Statement for the Wellington Region allocated responsibilities for developing objectives and policies to the Wellington Regional Council, with the responsibility for writing rules given to city and district councils.***

Amend the third sentence of paragraph 5 of 15.1 as follows:

*.....district council jurisdiction. The discharge of hazardous substances into the environment is controlled through the ~~Regional Discharges to Land Plan~~ **Regional Plan for Discharges to Land**. The use of land.....*

Add the following text to the end of paragraph 7 of 15.1 as follows:

*.....removal from the site. **Territorial authorities are responsible for controlling the effects of the use and development of land for the purpose of preventing or mitigating any adverse effects of the subdivision, use and development of contaminated land. When land has been contaminated by historical activities, it is not controlled by regional councils because hazardous substances are no longer being discharged to the environment. In this situation, processes need to be put in place so that future owners and users of the land are not adversely affected. The best time to do this is when there is an application to subdivide the land, or to change the land use.***

## Reasons

This decision is made for the following reasons:

- The provisions are considered the most efficient and effective means of outlining the Hazardous Substances chapter.
- The provisions clarify the terminology and roles of the Territorial and Regional Councils.

## 15.2 Significant Resource Management Issues

### Submission Summary

Submitter Number	Submitter Name	Further Submitter Name and Number	Further Submission Support/Oppose
526.61	Wellington Regional Council	-	-

## Discussion

**Greater Wellington Regional Council** (526.61) seek that Issue 1 be amended to also refer to 'disposal' of hazardous substances in the Issue, as the control of land for the disposal of hazardous substances is also controlled by the Plan. It also requests Issue 2 be amended to refer to 'development' rather than 'redevelopment'.

## Evidence Heard

**Greater Wellington Regional Council** (526.61) spoke in support of the Section 42A report recommendation for the amendments to 15.2 and acceptance of their submission.

## Commissioners' Deliberations

The Commissioners note the support from the submitter in respect of the proposed amendments. The amendments clarify the intent and application of the issues.

### Decision: 15.2 Significant Resource Management Issues

Submission Reference:

526.61      Accept

### Decision Amendment: 15.2 Significant Resource Management Issues

Amend Significant Resource Management Issue 1 as follows:

*1. The use, **disposal**, storage and transport of hazardous substances can have adverse effects on the environment.*

Amend Significant Resource Management Issue 2 as follows:

*2. Use or ~~re~~development of contaminated land can pose a risk to human health, or increase the discharge of contaminants with consequent adverse effects on the environment.*

## Reasons

This decision is made for the following reasons:

- The amended provisions clarify the intent and application of the issues and are considered the most efficient and effective means of stating the issues.

### 15.3.4 Objective Haz2 – Contaminated Sites

#### Submission Summary

Submitter Number	Submitter Name	Further Submitter Name and Number	Further Submission Support/Oppose
526.62	Wellington Regional Council	-	-

## Discussion

**Greater Wellington Regional Council** (526.62) seek that the current Objective Haz2 be replaced with suggested new wording: *To protect future users of contaminated land from adverse effects of the contaminants.*

## Evidence Heard

**Greater Wellington Regional Council** (526.62) spoke in support of the Section 42A report recommendation for the amendments to 15.3.4 and the part acceptance of their submission.

## Commissioners' Deliberations

The Commissioners note the support from the submitter in respect of the recommended amendment to Objective Haz2 and associated policies in order to clarify the time at which remediation of contaminated land is to occur and the responsibility of whom. The Commissioners concur with the Section 422A report recommendation.

One issue raised in the hearing evidence presented by Horticulture New Zealand on other matters is in respect of the terminology used and the application of the word "site". The Commissioners believe it is important that the terminology in the Plan is consistent and that the word "land" when making reference to contamination, better reflects the intent of the objectives, policies and rules compared to "site" as defined in the plan as referring to the whole site held in a Certificate of Title, rather than the specific area of land to which the contamination has occurred. The RMA Amendment Act 2005 introduced a definition for contaminated land, as follows, and the Commissioners consider this an appropriate definition.

*"Contaminated land" means land of one of the following kinds:*

*(a) if there is an applicable national environmental standard on contaminants in soil, the land is more contaminated than the standard allows; or*

*(b) if there is no applicable national environmental standard on contaminants in soil, the land has a hazardous substance in or on it that –*

*(i) has significant adverse effects on the environment; or*

*(ii) is reasonably likely to have significant adverse effects on the environment.*

The term "contaminated land" is considered a more accurate method of identifying the area subject to the provisions relating to contamination, and we have made consequential changes to the Plan to provide consistency in the terminology used. "Contaminated Land" is defined in the Act, therefore, the District Plan does not include a different definition.

## Decision: 15.3.4 Objective Haz2 – Contaminated Sites

Submission Reference:

526.62      Accept in part

## Decision Amendment: 15.3.4 Objective Haz2 – Contaminated Sites

Amend 15.3.4 Objective Haz2 – Contaminated Sites by replacing the current wording with new words as follows:

### 15.3.4 Objective Haz2 – Contaminated ~~Sites~~ Land

***"To ensure when ~~redevelop~~ contaminated land sites is subdivided and/or redeveloped that the adverse effects of the land's contamination on ~~in~~ such a way that the environment and future uses of the site land are avoided or remedied. ~~protected from the adverse effects of the contaminant(s).~~***

## Consequential Amendment:

Amend 15.3.5 Policy (a) to read as follows:

***"Require landowners to undertake contaminant removal..."***

Amend Table of contents as follows:

30 APPENDIX 3 – SCHEDULE OF CONTAMINATED ~~SITES~~ LAND

Amend 15.1 Introduction paragraph 7 as follows:

*Hazardous substances can contaminate land when discharges occur and are not cleaned up. ~~A contaminated site~~ **Contaminated land** is an area where contaminants occur at greater levels than naturally occurring background levels. Within the Wairarapa there are a number of known ~~contaminated sites~~, **sites containing contaminated land** where testing has confirmed the presence of hazardous substances. An owner wishing to conduct activities on ~~a contaminated site~~ **land** needs to ensure the contaminant is not exposed during activities or that it is appropriately managed, usually through remediation or removal from the ~~site~~ **land**.*

Amend 15.3.5 Haz2 Policies as follows:

- (a) Require contaminant removal and appropriate disposal from known contaminated ~~sites~~ **land**, or treatment to contain the contaminant where the wider environment may be adversely affected.*
- (b) Update the list of known contaminated ~~sites~~ **land**, as reliable information becomes available.*
- (c) Control new activities on contaminated ~~sites~~ **land** to ensure any potential adverse effects arising from the contamination are avoided, remedied or mitigated, in coordination with the Regional Council.*

Amend 15.3.6 Explanation as follows:

*Some ~~sites~~ **land** within the Wairarapa is contaminated from previous land use. These ~~sites~~ **contaminated areas** can pose a threat to the environment and to the health of people. Depending on the nature of the contaminant, some activities could be vulnerable to the effects of the contaminants and therefore be unsuited to the contaminated ~~site~~ **land** (for example, a residential use). Activities that require substantial earthworks or regular soil disturbance may also be unsuitable as they may inadvertently expose the contaminant. Alternatively, where new activities locate on ~~a~~ contaminated ~~site~~ **land** and the contaminant is not disturbed, there may be no adverse effect to the activity or the environment.*

*Potential purchasers of ~~a~~ contaminated ~~site~~ **land** need to be informed of the ~~site's~~ **land's** constraints so they can consider its suitability for activities or development, and methods to avoid, remedy or mitigate the potential risks. To assist this, activities on ~~sites~~ **land** listed in the Schedule of Known Contaminated ~~Sites~~ **Land** will be controlled to ensure contaminants are not exposed by the activity, or that effective remediation is undertaken to avoid or mitigate adverse effects. As further reliable information on contaminated ~~sites~~ **land** becomes available, the schedule will be updated either to add new ~~sites~~ **land** or remove existing ~~sites~~ **land** where the risks have been effectively eliminated.*

*As the Regional Council has primary statutory responsibility for managing remediation, given the proposed activity may create a discharge to the.....*

Amend 15.3.7 Methods to Implement Hazardous Substances Policies as follows:

- (c) Identify contaminated ~~sites~~ **land** through a Schedule of Known Contaminated ~~Sites~~ **Land** (with the Schedule updated as reliable new information becomes available) to control activities and development through the resource consent process.*

*(d) Assess the potential environmental effects for activities requiring resource consent through the hazardous facilities screening process and/or by non-conformance with other performance standards and/or the use of known contaminated ~~sites~~ **land**.*

Amend paragraph 4 of 15.3.8 Principal Reasons for Adoption as follows:

*Known contaminated ~~sites~~ **are land** is identified in the Plan, with corresponding rules, to give as much certainty as possible about the location and management of potentially hazardous sites.*

Amend 15.4 Anticipated Environmental Outcomes (c) as follows:

*(c) The number of known areas of contaminated ~~sites~~ **land** is reduced, and/or the extent of their contamination is reduced to levels where they may satisfactorily be used without significant adverse effects on people or the environment.*

Amend 20.1.15 Discretionary Activities as follows:

*(iv) It includes ~~a Scheduled Contaminated Site~~ **Land** (Appendix 3);*

Amend 21.3. 4 as follows:

*Activities within ~~a Scheduled Contaminated Site~~ **Land***

*(a) Any activity on ~~a Scheduled Contaminated Site~~ **Land** as listed in Appendix **3.1**.*

Amend 22.1.1 Subdivision as follows:

*(b) Contaminated ~~Site~~ **Land***

*(i) The existence and nature of any hazardous substance in, on or under the ~~site~~ **land** that may adversely affect the environment, and the works or other solutions proposed to avoid, remedy or mitigate those effects.*

Amend 22.1.14 as follows:

*Contaminated ~~Site~~ **Land***

*(ii) (3) Measures to ensure the safe operation of the activity on the contaminated ~~site~~ **land**;*

Delete 27 Definition of Contaminated Site:

~~**Contaminated Site** — A site having hazardous substances present in concentrations that are above naturally occurring background levels and pose an immediate or long term risk to the environment and/or human health and includes landfill sites.~~

Amend APPENDIX 3 as follows:

~~— SCHEDULE OF CONTAMINATED **SITES LAND**~~

Amend Appendix 3 Tables as follows:

~~Contaminated **Site** **Land** Number~~

## Reasons

This decision is made for the following reasons:

- The term “contaminated land” is considered a more accurate description of identifying the area subject to the provisions relating to contamination.

- The amended provisions clarify the intent and application of the Objective as it clarifies the time at which remediation is to occur and the responsibility of whom.

### 15.3.5 Haz2 Policies: Add a New Policy

#### Submission Summary

Submitter Number	Submitter Name	Further Submitter Name and Number	Further Submission Support/Oppose
526.63	Wellington Regional Council	FS85 Federated Farmers of New Zealand (Inc) FS52 Horticulture New Zealand FS112 D Riddiford	Oppose  Oppose Oppose

#### Discussion

**Greater Wellington Regional Council** (526.63) seek that a new Policy be added. **Federated Farmers of New Zealand (Inc)** (FS85), **Horticulture New Zealand** (FS52) and **D Riddiford** (FS112) oppose this submission.

#### Evidence Heard

**Greater Wellington Regional Council** (526.63) spoke in support of the Section 42A report recommendation for the inclusion of a new policy to 15.3.5 and corresponding explanation and the part acceptance of their submission because it reflects the functions of district councils under the RMA.

**Horticulture New Zealand** (FS52) spoke in support of their further submission and presented evidence raising concern with the fundamental change in philosophy sought through submissions, from specific known contaminated sites to potentially contaminated sites. The submitter commented that one of the biggest challenges in addressing potentially contaminated land is the fact that the contamination has generally occurred historically and knowledge of historical land use may not be available. They contended the other challenge is that contamination may have occurred as a result of legally sanctioned or accepted “best practices” of the day. Any changes to the Plan should reflect the fact that such uses were not only historical, but sanctioned or accepted “best practices” of the day. The submitter requests submission 526.63 be rejected.

#### Commissioners’ Deliberations

The Commissioners note the support from Greater Wellington Regional Council in respect of the Section 42A report recommendation. The Commissioners also noted the comments regarding historical contamination and concerns raised by Horticulture NZ. In considering this issue, the Commissioners consider that there be a new policy recognising that some historical uses of land may have resulted in land contamination to be the most efficient and effective approach for achieving the objective for contaminated land. As noted in the Section 42A Report, the new Policy requested by the submitter raises awareness of historical land contamination. The Commissioners do not consider the insertion of a new policy and explanation fundamentally changes the philosophical approach of the plan from known



contaminated land to potentially contaminated land as the emphasis remains on known contaminated land.

### Decision: 15.3.5 Haz2 Policies: Add a New Policy

Submission Reference:

526.63	Accept in part
FS85	Reject
FS52	Reject
FS112	Reject

### Decision Amendment: 15.3.5 Haz2 Policies: Add a New Policy

Add a new Policy (d) as follows:

***Recognise that some historical uses of land may have resulted in land contamination and the redevelopment of this land needs to be controlled.***

Add a new paragraph 4 to '15.3.6 Explanation' as follows:

***The Council must be satisfied that any likely adverse effects from such contamination are avoided or remedied. This assessment should be done before the change in land use occurs to protect users of the land from the adverse effects of contaminants. The historical land use of all land can be checked against the Hazardous Activities and Industries List (see Appendix 3), and if necessary, investigations required to show that the land is not contaminated before the change in land use occurs.***

### Reasons

This decision is made for the following reasons:

- The new Policy raises awareness of historical land contamination and is the most effective and efficient approach for avoiding or remedying their adverse effects on the future use of land.

### 15.3.6 Explanation

#### Submission Summary

Submitter Number	Submitter Name	Further Submitter Name and Number	Further Submission Support/Oppose
526.64	Wellington Regional Council	FS52 Horticulture New Zealand	Oppose

### Discussion

**Greater Wellington Regional Council** (526.64) seek that paragraphs 2 and 3 of the Explanation be amended. **Horticulture New Zealand** (FS52) oppose this submission.

## Evidence Heard

**Greater Wellington Regional Council** (526.64) spoke in support of the Section 42A report recommendation for the amendments to 15.3.6 Explanation, for the reason given in the Section 42A Report, namely that the amendment makes it clear that the Regional Councils functions relate to any discharge and not to managing remediation.

**Horticulture New Zealand** (FS52) spoke in support of their further submission and presented evidence raising concern with the fundamental change in philosophy sought through submissions, from specific known contaminated sites to potentially contaminated sites. The submitter requests submission 526.64 be rejected.

## Commissioners' Deliberations

The Commissioners concur with the recommendation of the Section 42A Report that the requested amendment to the text of paragraph 3 adds further meaning and clarity to the explanatory text. The requested amendment to the text of paragraph 2 could be open to interpretation and therefore the Commissioners do not believe changes are appropriate or the most efficient and effective method of explaining the intent of the objective and policies.

## Decision: 15.3.6 Explanation

Submission Reference:

526.64	Accept in part
FS52	Reject

## Decision Amendment: 15.3.6 Explanation

Replace the text of paragraph 3 as follows:

~~*As the Regional Council has primary statutory responsibility for managing remediation, given the proposed activity may create a discharge to the environment, developers may need to obtain resource consent from the Greater Wellington Regional Council prior to remediation.*~~ ***Regional councils are responsible for controlling all discharges of contaminants to the environment. Any remediation work undertaken on land that causes a discharge of contaminants to the environment may require a resource consent from the Wellington Regional Council.***

## Reasons

This decision is made for the following reasons:

- The amendment to the text of paragraph 3 adds further meaning and clarity to the explanatory text and the function of the Regional Council.

## 15.3.7 Methods to Implement Hazardous Substances Policies

### Submission Summary

Submitter Number	Submitter Name	Further Submitter Name and Number	Further Submission Support/Oppose
526.65	Wellington	FS85 Federated Farmers of New	Oppose

	Regional Council	Zealand (Inc) FS52 Horticulture New Zealand FS112 D Riddiford	Oppose Oppose
492.24	Horticulture New Zealand	FS54 New Zealand Winegrowers	Support

## Discussion

**Greater Wellington Regional Council** (526.65) seeks that a new Method (c) be added to commit consent authorities to checking the contamination risk of land they are assessing for subdivision or change in land use, and to make a consequential addition of explanatory text to '15.3.8 Principal Reasons for Adoption' as set out in the above Table. **Federated Farmers of New Zealand (Inc)** (FS85), **Horticulture New Zealand** (FS52) and **D Riddiford** (FS112) oppose this submission.

**Horticulture New Zealand** (492.24) request Method (f) be amended to require compliance with NZS8409:2004 Management of Agrichemicals, and that no additional requirements relate to the use, storage, transport and disposal of agrichemicals. **New Zealand Winegrowers** (FS54) support this submission.

## Evidence Heard

**Greater Wellington Regional Council** (526.65) spoke in support of the Section 42A report recommendation for the amendments to 15.3.7 Explanation. Their reason for support is that the amendment is necessary to ensure that consent authorities check the contamination risk of land when they are assessing applications for subdivision or change in land use.

**Horticulture New Zealand** spoke in support of their submission and propose an alternative wording to method 15.3.7(f) being: *Promote the use of codes of practice, and in particular support the use of NZS8409:2004 Management of Agrichemicals in the management of the use, storage and transportation of hazardous substance.* The submitter requests submission 526.65 be rejected.

**New Zealand Winegrowers** (FS54) spoke in support of their submission requesting that 15.3.7 be amended to require compliance with NZS8409:2004 Management of Agrichemicals. NZ Winegrowers considers that compliance with the standards should be an accepted method to implement the Proposed Plan's hazardous substances policies. As a result, the NZ Winegrowers support the Section 42A report recommendation that agrichemicals used, stored, transported and disposed of in compliance with NZS8409:2004 should be exempt from complying with the standards set out under Rule 21.1.9.

## Commissioners' Deliberations

The current methods in the Plan focus on managing the effects when subdividing or redeveloping "known" and listed contaminated land. It is acknowledged not all contaminated land has been identified in the Plan and the Commissioners consider that some historical land uses have the potential to contaminate land, and if these sites are subdivided and/or redeveloped, they may pose a risk to future occupiers and the environment. The current methods propose a mix of regulatory and non-regulatory approaches with regulatory methods only applying to listed contaminated land. This approach is not considered the most effective or efficient method for achieving the objective for contaminated land as potentially

contaminated land may be redeveloped without the necessary remedial work being completed. To overcome this anomaly, the Commissioners support the inclusion of a revised HAIL listing as a method for managing the subdivision and/or redevelopment of potentially contaminated land. While this method may introduce a level of uncertainty about what land is potentially contaminated, and introduce some costs to parties wishing to subdivide or redevelop their land, the risks of not acting are considered to be high. In line with the hearing evidence presented by Horticulture New Zealand, the reference to the list has been modified so as to reflect the Wairarapa situation and modifications.

In respect of Policy (f), the Commissioners concur with the hearing evidence presented seeking the amendment to Method 15.3.7(f) being to *Promote the use of codes of practice, and in particular support the use of NZS8409:2004 Management of Agrichemicals in the management of the use, storage and transportation of hazardous substance*. The Commissioners consider the amendment to be an efficient and effective method, and the amendment addresses concerns raised in the Section 42A report regarding conflict with the requirements for the risk thresholds applied under Method (b).

### Decision: 15.3.7 Methods to Implement Hazardous Substances Policies

Submission Reference:

526.65	Accept in part
FS85	Reject
FS52	Reject
FS112	Reject

492.24	Accept in part
FS54	Accept in part

### Decision Amendment: 15.3.7 Methods to Implement Hazardous Substances Policies

Amend Method (c) to read as follows:

*.....information becomes available) and apply a modified Wairarapa Hazardous Activity and Industry List (Wairarapa HAIL) for potentially contaminated land to control activities...*

Amend the text to paragraph 4 in the 15.3.8 Principal Reasons for Adoption as follows:

*Known contaminated sites are identified in the Plan, and potentially contaminated sites are identified using the HAIL approach, with corresponding rules. The known contaminated sites provide a high level of certainty about the location and management of these sites. For potentially contaminated sites, assessment through the resource consent process would ensure the risks of any potential contamination are effectively remediated. ~~to give as much certainty as possible about the location and management of potentially hazardous sites.~~*

Amend Method (f) to read as follows:

*Promote the use of codes of practice, ~~such~~ and in particular support the use of NZS8409:2004 "Management of Agrichemicals", in the management of the use, storage and transportation of hazardous substance.*

## Reasons

This decision is made for the following reasons:

- The provisions as amended, are considered the most effective and efficient method for achieving the objective for contaminated land of avoiding or remediating the adverse effects on the environment and future uses of the land.

## 15.4 Anticipated Environmental Outcome (b)

### Submission Summary

Submitter Number	Submitter Name	Further Submitter Name and Number	Further Submission Support/Oppose
522.32	Planning Departments of Masterton, Carterton and South Wairarapa	FS103 Windy Peak Trust	Oppose

### Discussion

The **Planning Departments of Masterton, Carterton and South Wairarapa District Councils** (522.32) seek that Anticipated Environmental Outcome (b) be amended to recognise that when accidental spillages of hazardous substances occur, the adverse effects cannot be 'avoided' as they can only be remedied or mitigated. **Windy Peak Trust** (FS103) oppose this submission.

### Evidence Heard

There was no specific evidence presented on this point.

### Commissioners' Deliberations

The Commissioners concur with the Section 42A Report that the requested amendment more accurately reflects the environmental outcome that can be achieved where accidental spillages of hazardous substances occur. Therefore, it is decided to amend Anticipated Environmental Outcome (b).

### Decision: 15.4 Anticipated Environmental Outcome (b)

Submission Reference:

522.32	Accept
FS103	Reject

### Decision Amendment: 15.4 Anticipated Environmental Outcome (b)

Amend Anticipated Environmental Outcome (b) as follows:

- (b) *Where occurrences of accidents and spillages involving hazardous substances cannot be satisfactorily avoided, the ~~magnitude and extent~~ **scale** of their adverse environmental effects can be ~~avoided~~ remedied or mitigated through appropriate site design, management and operational practices of hazardous facilities.*

## Reasons

This decision is made for the following reasons:

- The amended outcome more accurately reflects the environmental outcome that can be achieved where accidental spillages of hazardous substances occur.

### 21.1.19 Permitted Activities – Hazardous Substances

#### Submission Summary

Submitter Number	Submitter Name	Further Submitter Name and Number	Further Submission Support/Oppose
280.2	Baird & Henderson Contracts Ltd	-	-
524.74	Federated Farmers of New Zealand (Inc)	FS54 New Zealand Winegrowers	Support
285.15	Forestry Wairarapa Cluster Group	-	-
492.25	Horticulture New Zealand	FS54 New Zealand Winegrowers	Support
515.16	Juken New Zealand Ltd, Forestry Wairarapa	FS103 Waipine	Support
264.37	D Riddiford	-	-
443.7	JNL Masterton	-	-

## Discussion

**Baird & Henderson Contracts Ltd** (280.2), **Forestry Wairarapa Cluster Group** (285.15) and **Juken New Zealand Ltd, Forestry Wairarapa** (515.16) request this rule be amended so it does not conflict with the Hazardous Substances and New Organism (HSNO) requirements. **Waipine** (FS103) supports the original submission from Juken New Zealand Ltd.

In addition, **Federated Farmers of New Zealand (Inc)** (524.74) and **Horticulture New Zealand** (492.25) request exemptions apply to agrichemicals used, stored, transported and disposed of in compliance with NZS8409:2004 and **New Zealand Winegrowers** (FS54) support both these submissions.

**D Riddiford** (264.37) notes he will submit in further detail on Hazardous Substances & Facilities at the hearing.

**JNL Masterton** (443.7) oppose Rule 21.1.19.

### **Evidence Heard**

**Horticulture New Zealand** (492.25) spoke in support of the Section 42A report recommendation that the exception based on NZS8409:2004 Management of Agrichemicals be included in Rule 21.1.19.

**New Zealand Winegrowers** (FS54) spoke in support of the Section 42A report recommendation that agrichemicals used, stored, transported and disposed of in compliance with NZS8409:2004 should be exempt from complying with the standards set out under Rule 21.1.19.

### **Commissioners' Deliberations**

The Commissioners note the support from submitters for the Section 42A report recommendation that the exception based on NZS8409:2004 Management of Agrichemicals be included in Rule 21.1.19. Rule 21.1.19 permits hazardous substances to be used and stored on a site if it does not exceed the thresholds for different substances listed in Appendix 2. The purpose of this rule is to ensure that the amount of hazardous substances stored and used does not pose an unacceptable risk to the environmental qualities in that locality.

The current rule includes exemptions for consumer products, small domestic quantities of fuel, safety ammunition and small fireworks, and fuel in service stations. Ammunition, fireworks and fuel in service stations are controlled by additional requirements.

As the use, storage, transportation and disposal of agrichemicals has a national standard, it is considered appropriate to also exempt these substances, provided compliance is achieved with this standard. In addition, Horticulture NZ also requests a similar exemption for farm fuel which has another guideline. This fuel standard is also considered an appropriate exemption, as the standard sets out specific requirements in terms of the quantity of fuel, storage location, minimum tank specifications and delivery procedures. The Commissioners concur with the Section 42A report recommendation and amendment relating to the addition of these two standards to the exemptions.

In respect of the submissions requesting Rule 21.1.19 be amended so it does not conflict with the Hazardous Substances and New Organisms (HSNO) requirements, the Commissioners note that the Hazardous Substances and New Organisms Act relates to the management of hazardous substances, in terms of their manufacturing, storage and use. District Councils are responsible under the Resource Management Act to protect the environment from the adverse effects from the use, storage, transportation and disposal of hazardous substances. Therefore, the Commissioners consider the District Plan fulfils the obligations under the RMA for managing hazardous substances.

The Hazardous Facilities Consent Status Table approach used in Rule 21.1.9 sets different thresholds for various substances, with small quantities of most substances generally permitted. This hierarchical approach to hazardous substances (e.g. the larger the quantity of substance stored or used, or the higher the risk of the substance), means different activity status apply to different substances and quantities. In addition, more stringent activity status applies in the Residential Zone, compared to the Industrial Zone. This rule framework is considered the most effective and efficient approach to achieving the objective in the Plan for

hazardous substances, and is not considered to duplicate or conflict with the requirements of HSNO.

### Decision: Rule 21.1.19

Submission Reference:

280.2	Reject
524.74	Accept
FS54	Accept
285.15	Reject
492.25	Accept
FS54	Accept
515.16	Reject
FS103	Reject
264.37	Reject
443.7	Reject

### Decision Amendment: Rule 21.1.19

Amend Rule 21.1.19 to read as follows:

*Exemptions:*

*The following are exempt from complying with the above standards:*

- (v) ***Agrichemical use, storage, transportation and disposal where these activities are carried out in compliance with NZS8409:2004 Management of Agrichemicals***
  
- (vi) ***Storage of fuel for primary production activities in the Rural (Primary production) Zone and Rural (Special) Zone where it complies with the Guidelines for Safe Above-Ground Fuel Storage on Farms (Dept of Labour October 2001).***

### Reasons

This decision is made for the following reasons:

- The existing rule framework is considered the most effective and efficient approach to achieving the objective in the Plan for hazardous substances, and is not considered to duplicate or conflict with the requirements of HSNO.
- The amended exemptions are considered the most efficient and effective method for managing the use, storage, transportation and disposal of agrichemicals and storage of fuel.

## 21.2.2 Controlled Activities – Hazardous Facilities

### Submission Summary

Submitter	Submitter	Further Submitter Name and	Further Submission
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Number	Name	Number	Support/Oppose
264.43	D Riddiford	-	-
443.7	JNL Masterton	-	-

## Discussion

**D Riddiford** (264.43) notes he will submit in further detail on Hazardous Facilities at the hearing. **JNL Masterton** (443.7) oppose Rule 21.2.2 and seek the incorporation of the Hazardous Facilities Screening Procedure (HFSP) within the Plan.

## Evidence Heard

**JNL Masterton** (443.7) spoke in support of their submission, seeking that the Commissioners reconsider this matter as the direct incorporation of the HFSP into District Plans is a commonly applied approach that has been adopted by many council.

## Commissioners' Deliberations

The Commissioners believe the existing plan provisions and incorporation of the consents matrix is the most efficient and effective method for controlling hazardous facilities.

The Commissioners note that the submission by D Riddiford does not state the relief sought or reasons for the submission on Rule 21.2.2.

## Decision: 21.2.2 Controlled Activities – Hazardous Facilities

Submission Reference:

264.43	Reject
443.7	Reject

## Reasons

This decision is made for the following reasons:

- The existing provision is considered the most efficient and effective in achieving the objective for hazardous substances.

## 21.3.4 Restricted Discretionary Activities – Contaminated Sites

### Submission Summary

Submitter Number	Submitter Name	Further Submitter Name and Number	Further Submission Support/Oppose
526.103	Wellington Regional Council	FS52 Horticulture New Zealand	Oppose

## Discussion

**Greater Wellington Regional Council** (526.103) requests the rule require consent for any activity on a site previously used by an activity that may have resulted in land contamination

(HAIL). The submission states that the rule should also apply to sites where contamination has been confirmed as a result of investigations undertaken because the land has previously been used for an activity or industry listed on the Hazardous Activities and Industries List. **Horticulture New Zealand** (FS52) oppose this submission.

## **Evidence Heard**

**Greater Wellington Regional Council** (526.103) stated they partly support the Section 42A report recommendation as this is necessary to ensure that consent authorities check the contamination risk of land when they are assessing applications for change in land use. However, six activities and industries on the HAIL have not been included in the recommended new appendix. Greater Wellington Regional Council does not support removing industries: 28 (Livestock dip or spray race operations), 29 (Market gardens, orchards, glass houses or other areas where the use of persistent agricultural chemicals occurred) or 48 (Storage tanks and drum storage for fuel, chemicals and liquid waste) from the list.

**Horticulture New Zealand** (FS52) spoke in support of their submission and provided evidence requesting submission 526.103 be rejected and addressed through a variation to the plan. Horticulture New Zealand seek renaming of the modified HAIL list so it is not confused with the full HAIL list.

## **Commissioners' Deliberations**

The Commissioners recognise the Proposed Plan approach of only listing sites in Appendix 3 limits its effectiveness in managing the risk from contaminated land. The Commissioners concur with the Section 42A report that to manage this issue, an effective and efficient approach is using the Hazardous Activities and Industries List (HAIL) is a more effective approach.

The amendment requires any activity on contaminated (i.e. listed), or potentially contaminated land (i.e. a HAIL site), would be assessed as a restricted discretionary activity. This approach would ensure that proper and safe measures are undertaken and that remediation practices would not lead to further contamination of the site, surrounding environment or present a risk to human health.

In applying HAIL, the Commissioners concur with the Section 42A report that the HAIL schedule requested by the submitter is considered to include some land uses which are overly restrictive, and not appropriate to the nature of activities in the Wairarapa.

In considering appropriate modifications, the Commissioners note the support from Greater Wellington Regional Council for the removal of activities 49 (land disposal of wastes, but not the use of biosolids as soil conditions), 52 (Any site that has been, or could be, subject to the migration of hazardous substances from hazardous substances present in soil or water on adjacent sites) and 53 (Any other facility or activity that stores, uses or disposes of hazardous substances, in sufficient quantity that intentional or accidental discharge of the substance could be a risk to human health or the environment) from the HAIL list.

In respect of activity 29 (Market gardens, orchards, glass houses or other areas where the use of persistent agricultural chemicals occurred) the Commissioners concur with Greater Wellington Regional Council and the Section 42A report that this activity listing is overly inclusive. However, it is considered efficient and effective that there is some form of control over these types of activities given the potential harm to human health and the environment from these activities. Amending the activity description by inserting the word 'commercial' before market gardens, and removal of the words 'or other areas where the use of persistent

agricultural chemicals occurred' better expresses this activity for the potential risk in the Wairarapa context.

In respect of activity 48 (Storage tanks and drum storage for fuel, chemicals and liquid waste) the Commissioners concur with Greater Wellington Regional Council and the Section 42A report that the activity listing is not specific enough for inclusion in the District Plan. However, it is considered efficient and effective that there is some form of control over this type of activity given that some storage tanks historically used may not have been well sealed and may have leaked hazardous substances. The activity description is amended by inserting a size limit of 5,000 litres and amending the activity list to read 'Storage tanks over 5,000 litres capacity used for agricultural chemicals'.

Activity 28 relates to 'Livestock dip or spray race operations'. The Commissioners concur with the Section 42A report that the inclusion of this activity is overly restrictive, and not appropriate to the nature of activities in the Wairarapa.

In applying the HAIL approach, there is the issue of the unknown history of activities on different sites. Where council is aware of contamination or potential contamination, it currently obtains this information from the Greater Wellington Regional Council SLUR (Selected Land Use Register) Database. This information will assist in determining whether a consent is required under this rule of the Plan.

The Commissioner consider it to be the most efficient and effective approach to amend Rule 21.3.4 to require consent for activities on potentially contaminated land, using a modified Wairarapa HAIL schedule. Reference to the schedule has been amended so as to take account of the modifications made.

### Decision: Rule 21.3.4 Hazardous Substances

Submission Reference:

526.103	Accept in part
FS52	Accept in part

### Decision Amendment: Rule 21.3.4 Hazardous Substances

Amend Rule 21.3.4 to read as follows:

*Activities within a ~~Scheduled Contaminated Sites~~ Land*

- (a) Any activity on a ~~Scheduled~~ of Contaminated Site Land as listed in Appendix 3.1.*
- (b) Any activity on land previously or currently used for an activity or industry listed on the modified Wairarapa Hazardous Activity and Industry List (Wairarapa HAIL) in Appendix 3.2.*

### Consequential Amendment:

Add the following new rule to Discretionary Activity Subdivisions:

***Rule 20.1.5(a)(iv) It is on land previously or currently used for an activity or industry listed on the modified Wairarapa Hazardous Activity and Industry List (Wairarapa HAIL) in Appendix 3.2.***

Re-number Rule 20.1.5(a) from (iv) to (xii) to (v) to (xiii).

Consequential Change:

Add a new heading for list of contaminated land as follows:

**Appendix 3.1 Schedule of Contaminated Land**

Add a new schedule to Appendix 3 as follows:

**Appendix 3.2 Modified Wairarapa Hazardous Activities and Industry List (Wairarapa HAIL)**

*The Wairarapa HAIL (see below) defines industries and activities which typically use or store hazardous substances that could cause contamination if these substances escaped from safe storage, were disposed of on the site, or were lost to the environment through their use. The fact that an activity or industry appears on the list does not mean that hazardous substances were used or stored on all sites occupied by that activity or industry, nor that a site of this sort will have hazardous substances present in the land. The list merely indicates that such activities and industries are more likely to use or store hazardous substances and therefore there is a greater probability of site contamination occurring than other uses or activities. Conversely, where an activity or industry that does not appear on the list, this does not guarantee such a site will not be contaminated. Each case must be considered on its merits, considering the information at hand. In applying the list, it must be remembered that the activity may only have occupied a small part of the site, and therefore the possibility of contamination will also be for a small part of the site.*

Activity or Industry	Hazardous Substances
1. Abrasive blasting – carrying out abrasive blast cleaning (other than cleaning carried out in fully enclosed booths) or disposing of abrasive blasting material.	Dependent on material being removed, Heavy metals, iron
2. Acid/alkali plant, formulation and bulk storage.	Mercury, sulphuric, hydrochloric and nitric acids, sodium and calcium hydroxide
3. Agrichemical spray contractor's premises used for filling and washing out tanks for commercial agrichemical application.	Arsenic, lead, copper, organochlorine pesticides, organophosphate pesticides, herbicides, fungicides, carbamates, and synthetic pyrethroids
4. Airports – fuel storage, workshops, washdown areas, stormwater runoff from hardstanding.	Hydrocarbons, metals
5. Analysts – commercial analytical laboratory sites.	Solvents, acids, mercury
6. Asbestos products production and disposal. Also sites with buildings containing asbestos products known to be in a deteriorated condition.	Asbestos
7. Asphalt or bitumen manufacture or bulk storage – manufacturing asphalt or bitumen, or bulk storage of these products, other than at a single-use site used by	Petroleum hydrocarbons, PAHs

a mobile asphalt plant.	
8. Battery manufacture or recycling – assembling, disassembling, manufacturing or recycling batteries (other than storing batteries for retail sale).	Heavy metals (lead, mercury, zinc, cadmium, nickel, antimony, silver, manganese), sulphuric acid
9. Brake lining manufacturers, repairers and recyclers.	Asbestos, copper
10. Cement or lime manufacturing – manufacturing cement or lime from limestone material using a kiln and storing wastes from the manufacturing process.	Lime, calcium hydroxide, alkalis
11. Cemeteries	Nitrates, lead, formaldehyde, biological hazards
12. Chemical manufacture and formulation and bulk storage such that land use consent is required.	Wide range of organic and inorganic compounds – see AS 4482.1 Table II
13. Coal and coke yards.	PAHs
14 Concrete manufacture and bulk cement storage.	Cement, calcium hydroxide, alkalis
15. Defence works and defence establishments, including ordinance storage and training areas where live firing is carried out.	Explosives, lead, copper, antimony (firing ranges), solvents and metals (workshops), hydrocarbon storage
16. Drum and tank reconditioning or recycling.	Wide range of chemicals from drums
17. Dry cleaning plants – restricted to premises where dry cleaning is carried out and solvents are stored.	Trichloroethylene 1,1,1 - trichloroethane perchloroethylene, carbon tetrachloride, VOCs
18. Electrical transformers – manufacturing, repairing or disposing of electrical transformers or other heavy electrical equipment.	PCBs, hydrocarbons, copper, tin, lead, mercury
19. Electronics – manufacturing, reconditioning	Metals (e.g. Copper, Tin, Lead), Solvents
20. Engine reconditioning – use of solvents and degreasers	Solvents, hydrocarbons, heavy metals
21. Explosive production or bulk storage	Acetone, nitric and sulphuric acid, ammonium nitrate, fuel oil, PCP, nitroglycerine, lead, mercury, copper, aluminium, silver, sodium hydroxide, explosives
22 Fertiliser manufacture – manufacturing or bulk storage of agriculture fertiliser.	Calcium phosphate, calcium sulphate, copper chloride, sulphur, sulphuric acid, molybdenum, selenium, iron, cadmium, nitrates, ammonia
23. Foundry operations – commercial production of metal products by injecting or pouring molten metal	Metals, particularly iron, aluminium, lead, zinc, copper, tin, nickel, chromium and

into moulds and associated activities,	oxides, chlorides, fluorides and sulphates of these. Acids, coke, fuel oil
24. Gasworks – manufacture of town gas from coal or oil feedstocks.	PAHs, phenolics, BTEX, metals (particularly arsenic, lead, copper, chromium), cyanide compounds, sulphides and sulphates, thiocyanates, ammonia, nitrates, coke
25. Gun pistol or rifle ranges	Metals – lead, antimony, copper, zinc, tin, nickel
26. Iron and steel works	BTEX, phenolics, PAHs, metals and oxides of iron, nickel, copper, chromium, magnesium and manganese
27. Landfill sites	Dependent on original waste composition, Hydrocarbons, BTEX, PAHs, metals, organic acids, landfill gas, ammonia
29. Commercial market gardens, orchards, or glass houses.	Arsenic, lead, copper, organochlorines and organophosphates.
30. Metal treatment or coating – including polishing, anodising, galvanising, pickling, electroplating, heat treatment using cyanide compounds and finishing, curing works or commercially finishing leather.	Metals (zinc, aluminium, cadmium, chromium, lead, copper, tin), acids (sulphuric, nitric, hydrochloric, phosphoric), sodium hydroxide, solvents and degreasers, cyanide
31. Mining and extractive industries and mineral processing – including chemically or physically extracting metalliferous ores, exposure of faces or release of groundwater containing hazardous contaminants and storing hazardous wastes, including waste dumps and tailings dams, but not gravel extraction.	Arsenic, mercury, cyanides, sulphides, metals – also workshop activities, fuel storage
32. Motor vehicle workshops	Hydrocarbons, PAHs, solvents, metals
33. Paint manufacture and formulation	Solvents, resins, heavy metals
34 Pest control – commercially operating premises (or former pest destruction board, now regional council sites) where storage and preparation of pesticide occurs, including preparation of poisoned baits and filling or washing of tanks.	Arsenic, cyanide, strychnine, mercury, phosphorus, 1080, organochlorines and organophosphates, carbamates, and synthetic pyrethroids
35. Pesticide manufacture (including animal poisons, insecticides, fungicides and herbicides) – commercially manufacturing, blending, mixing or formulating pesticides.	Wide range of insecticides, herbicides and fungicides, including Arsenic, lead, mercury, copper, tin, chromium, organochlorines, organonitrogens, organophosphates, acid herbicides, dioxin, carbamates
36. Petroleum or petrochemical industries or storage,	Hydrocarbons, including BTEX, PAHs,

including oil production and operating a petroleum depot, terminal, blending plant or refinery, retail or commercial refuelling facility, and facilities for recovery, reprocessing or recycling petroleum based materials and bulk storage above and below ground.	solvents, lead
37. Pharmaceutical manufacture – commercially manufacturing, blending, mixing or formulating pharmaceuticals, including animal remedies.	Solvents
38. Port activities – including dry docks and ship and boat maintenance facilities.	Metals, paint residues (tin, lead), fuel storage
39. Power stations and switchyards	PCBs asbestos metals (in fly ash), water treatment chemicals (thermal stations)
40. Printing – commercial printing, using metal type, inks and dyes, or solvents	Solvents, acids, alkalis, heavy metals
41. Railway yards – operating a railway yard including goods-handling yards, workshops, refuelling facilities and maintenance areas.	Hydrocarbons, heavy metals, solvents, creosote
42. Sawmills – use of antisapstain chemicals during milling.	Antisapstain fungicides, PCP, hydrocarbons
43. Scrap yards – operating a scrap yard including automotive dismantling or wrecking yard or scrap metal yard.	Metals, hydrocarbons, solvents
44. Service stations	Hydrocarbons, lead, copper
45. Smelting or refining – fusing or melting metalliferous ores or refining the metal.	Metals and oxides, fluorides, and chlorides thereof
46. Tannery, fellmongery or hide curing – operating a tannery or fellmongery or hide curing works or commercially finishing leather.	Chromium, manganese, copper, ammonia, sulphides, acids, sodium hydroxide, lime, formaldehyde, solvents, cyanide
47. Transport depots	Dependent on products being transported, hydrocarbons, metals and solvents in workshops
48. Storage tanks over 5,000 litres capacity used for agricultural chemicals	Arsenic, lead, copper, organochlorine pesticides, organophosphate pesticides, herbicides, fungicides, carbamates, and synthetic pyrethroids
50. Wood treatment and preservation and bulk storage of treated timber.	PCPI copper, arsenic, chromium, boron organo-tin, PAHS and phenolics (creosote), organochlorine pesticides.
51. Wool, hide and skin merchants (e.g. drying, scouring).	Detergents, Pesticides, Bleaching agents (e.g. hydrogen peroxide)

***Note: The numbering in the above table is based on the Ministry for the Environment Guidelines, as amended for inclusion within the Wairarapa Combined District Plan.***

## Reasons

This decision is made for the following reasons:

- The application of a modified HAIL schedule is considered the most efficient and effective approach for managing activities on potentially contaminated land to achieve the objective for contaminated land.
- The application of HAIL and assessment of resource consent would ensure that proper and safe measures are undertaken and that remediation practices will not lead to further degradation of the site, surrounding environment or present a risk to human health.

## 22.1.13 Assessment Criteria – Hazardous Substances and Facilities

### Submission Summary

Submitter Number	Submitter Name	Further Submitter Name and Number	Further Submission Support/Oppose
498.13	Wairarapa Public Health	-	-

## Discussion

**Wairarapa Public Health** (498.13) seek the addition of text to the Assessment Criteria to recognise the proximity of hazardous facilities in sensitive locations.

## Evidence Heard

No specific evidence was provided at the hearing.

## Commissioners' Deliberations

The Commissioners concur with the Section 42A report which amends the text to recognise the proximity of hazardous facilities in sensitive locations. These additional matters would assist in assessing any resource consent application, and ensuring a thorough consideration of the environmental characteristics of the local area.

## Decision: Assessment Criteria 22.1.13

Submission Reference:

498.13      Accept

## Amendment Decision: Assessment Criteria 22.1.13

Amend 22.1.13 to read as follows:

*(ii) Proximity of the hazardous facility to sensitive areas including:*



- (1) *Residential Zones, **schools, early childhood centres and rest homes;***
- (2) ***Aquifer recharge areas and surface water** ~~Lakes and waterways~~*

## Reasons

This decision is made for the following reasons:

- The above amendments are considered to better express the assessment criteria for recognising the proximity of hazardous facilities in sensitive locations.

### 22.1.14 Assessment Criteria – Contaminated Sites

#### Submission Summary

Submitter Number	Submitter Name	Further Submitter Name and Number	Further Submission Support/Oppose
526.109	Wellington Regional Council	-	-

## Discussion

**Greater Wellington Regional Council** (526.109) support the inclusive nature of these criteria. Together with 22.1.1(b), they apply to all sites and are not confined to those on the Schedule.

## Evidence Heard

No specific evidence was provided at the hearing.

## Commissioners' Deliberations

The Commissioners note the support from the submitter and concur with the Section 42A report recommendation retaining the status quo.

## Decision: Rule 22.1.14 Contaminated Sites

Submission Reference:

526.109    Accept

## Reasons

This decision is made for the following reasons:

- The existing provisions are considered the most efficient and effective assessment criteria for assessing the effects associated with the use and development of contaminated sites.

## 27 Definition – Hazardous Facility

### Submission Summary

Submitter Number	Submitter Name	Further Submitter Name and Number	Further Submission Support/Oppose
524.80	Federated Farmers of New Zealand (Inc)	FS112 D Riddiford FS85 Federated Farmers of New Zealand (Inc) FS54 New Zealand Winegrowers	Support Support Support
492.2	Horticulture New Zealand	-	-

### Discussion

**Federated Farmers of New Zealand (Inc) (524.80)** and **Horticulture New Zealand (492.2)** both seek the same amendments to the definition of a “hazardous facility”. **D Riddiford (FS112)**, **Federated Farmers of New Zealand (Inc) (FS85)** and **New Zealand Winegrowers (FS54)** support the original submission from Horticulture New Zealand.

### Evidence Heard

**Horticulture New Zealand** spoke in support of their submission seeking amendment to the definition of hazardous facility. The submission states that while the exemption in Rule 21.1.19 will go some way to address this issue it needs to be clear in the Plan that such activities are not hazardous facilities because there may be instances where the exemption will not apply and assessment under Rule 21.1.19 will be required. Amendments are sought to the definition to read: *Hazardous Substance Facility - Any area where hazardous substances are stored and handled in their undiluted form excluding vehicles used to apply diluted substances in a manner consistent with their intended use.* Or include an additional exemption as follows: *Agricultural which are currently diluted and being applied for their intended purpose, consistent with best management practices in NZS 8409:2004 Management of Agrichemicals.*

### Commissioners’ Deliberations

The definition of “hazardous facility” is applied in Rules 21.1.19, 21.4(k) and Appendix 2. Changing the term to “hazardous substances facility” is not considered to be as well understood or better expressed as the current term used.

The current definition is considered to be sufficiently clear, in that a “facility” does not apply to vehicles, such as tractors or spray equipment. The rules associated with this definition include an amended rule which exempts agrichemicals from the District Plan rules, provided compliance is achieved with the New Zealand Standard NZS8409:2004 Management of Agrichemicals. Accordingly, it is decided to retain the existing wording.

### Decision: Definition - Hazardous Facility

Submission Reference:

524.80	Reject
492.2	Reject

## Reasons

This decision is made for the following reasons:

- The current definition is considered to be sufficiently clear, and the most efficient and effective means of defining hazardous facility.

## 29 Appendix 2 – Hazardous Facilities

### Submission Summary

Submitter Number	Submitter Name	Further Submitter Name and Number	Further Submission Support/Oppose
522.73	Planning Departments of Masterton, Carterton and South Wairarapa District Councils	FS88 LPG Association of New Zealand FS102 Windy Peak Trust	Support  Oppose
526.116	Wellington Regional Council	FS52 Horticulture New Zealand	Support

### Discussion

**Planning Departments of Masterton, Carterton and South Wairarapa District Councils** (522.73) request the permitted activity standard in the Residential Zone for LPG storage be increased from 50kg to 100kg. **LPG Association of New Zealand** (FS88) support this submission. **Windy Peak Trust** (FS102) oppose this submission.

**Greater Wellington Regional Council** (526.116) request the quantity specification to the HSNO classes be added to the Table. **Horticulture New Zealand** (FS52) support this submission. **JNL Masterton** (443.7) oppose the use of the Hazardous Facilities Consent Status table and instead seek the inclusion of the Hazardous Facilities Screening Procedure (HFSP).

### Evidence Heard

The **LPG Association of New Zealand** (FS88) presented evidence in support of their submission requesting the permitted LPG storage volume in the Residential Zone be increased to 250 kg and make the requested amendments to Appendix 2.1.

**Greater Wellington Regional Council** (526.116) spoke in support of the Section 42A report recommendation to amend table 29.1 to include quantity specifications (tonnes or cubic metres) for the hazardous substances specified in the table.

**JNL Masterton** (443.7) spoke in support of their submission, seeking that the Commissioners reconsider this matter as the direct incorporation of the HFSP into District Plans is a commonly applied approach that has been adopted by many council.

## Commissioners' Deliberations

The Commissioners concur with the Section 42A report that adding the quantity specification (e.g. tonnes or cubic metres) to the Table of Hazardous Facilities would assist Plan users in better understanding the Plan provisions. Therefore, the table is amended to include these specifications.

With respect to increasing the quantity of LPG storage on residential properties, the Commissioners accept that this would provide an alternative energy source for internal and water heating, and is consistent with national statutes and other industry standards. The Commissioners considered a 300kgs limit would be appropriate so as to allow households to adopt a configuration of tank sizes that accommodate their needs. The Commissioners noted that the modern installation standards for LPG cylinders ensures they do not pose an unacceptable risk in the residential environment.

The Commissioners believe the existing plan provisions and incorporation of the consents matrix is the most efficient and effective method for controlling hazardous facilities as it is a simpler method than the HFSP.

## Decision: Appendix 2 – Hazardous Facilities

Submission Reference:

522.73	Accept in part
FS88	Accept
FS102	Reject
526.116	Accept
FS52	Accept
443.7	Reject

## Decision Amendment: Appendix 2 – Hazardous Facilities

Amend Appendix 2.1 Hazardous Facilities Consent Status Table as follows:

HAZARDOUS SUBSTANCE PROPERTY	CLASS	ZONE	INDUSTRIAL			COMMERCIAL/RURAL			RESIDENTIAL	
		HSNO Subclass	Permitted	Controlled	Discretionary	Permitted	Controlled	Discretionary	Permitted	Discretionary
		1.1 (all-storage)	<0.05	0.05-0.1	≥0.1	<0.02	0.02-0.04	>0.04	0	>0
<b>EXPLOSIVE</b>	<b>1</b>	1.2 (all-storage)	<0.5	0.5-1	≥1	<0.2	0.2-0.4	≥0.4	0	>0
<b>(tonnes)</b>		1.3 (all-storage)	<1.5	1.5-3	≥3	<0.5	0.5-1	≥1	0	>0
		1.2/1.3 with 1.1	<0.05	0.05-0.1	≥0.1	<0.02	0.02-0.04	>0.04	0	>0
		2.1 (all)	<1/ 2,000	1-2/2k-4k	≥2/ 4,000	<0.5/1 k	0.5-1/1k- 2k	≥1/ 2,000	<0.02/40	≥0.02/40
<b>FLAMMABLE (GASES)</b>	<b>2</b>	2.1 (within 50 m of m.s.l.)	<0.2	0.2-0.5	≥0.5	<0.1	0.1-0.2	≥0.2	-	-
<b>(AEROSOLS)</b>		All other non- hazardous	5/ 10,000	5- 10/10,000 -20,000	≥5/ 20,000	<2/ 4,000	2-4/4,000- 8,000	≥4/ 8,000	<0.1/200	≥0.1/200
<b>(tonnes)</b>		LPG	<3	3-6	≥6	<1.5	1.5-3	≥3	<0.3 <0.05	≥0.05 ≥0.3
		LPG (within 50 m of m.s.l.)	<1	1-2	≥2	<0.5	0.5-1	≥1	-	-
		3.1A, 3.1B	<6	6-12	≥12	<2	2-4	≥4	<0.1	≥0.1
		3.1A/B (within 50 m of m.s.l.)	<2	2-4	≥4	<0.6	0.6-1.2	≥1.2	-	-
<b>FLAMMABLE (LIQUIDS)</b>	<b>3</b>	3.1C	<20	20-40	≥40	<6	6-12	≥12	<0.3	≥0.3
<b>(tonnes)</b>		3.1D	<60	60-120	≥120	<20	20-40	≥40	<1	≥1
		3.2 (all)	<3	3-6	≥6	<1	1-2	≥2	<0.05	≥0.05
		4.1 (all)	<3	3-6	≥6	<1	1-2	≥2	<0.05	≥0.05
<b>FLAMMABLE (SOLIDS)</b>	<b>4</b>	4.2 (all)	<1	1-2	≥2	<0.4	0.4-1	≥1	<0.02	≥0.02
<b>(tonnes)</b>		4.3 (all)	<1	1-2	≥2	<0.4	0.4-1	≥1	<0.02	≥0.02
		5.1.2 Gases	<1,000	1,000- 2,000	≥2,000	<400	400-1,000	≥1,000	<40	≥40
<b>OXIDISING</b>	<b>5</b>	5.1.1 (all)	<3	3-6	≥6	<1.5	1.5-3	≥3	<0.05	≥0.05
<b>CAPACITY</b>		5.2 (all)	<1	1-2	≥2	<0.5	0.5-1	≥1	<0.02	≥0.02
<b>(tonnes)</b>		6.1A	<0.5	0.5-1	≥1	<0.2	0.2-0.4	≥0.4	0	>0
		6.1 Gases	<300	300-600	≥600	<100	100-200	≥200	0	>0
		6.1A (within 50 m of m.s.l.)	<0.2	0.2-0.4	≥0.4	<0.1	0.1-0.2	≥0.2	0	>0
<b>TOXIC</b>	<b>6</b>	6.1B, 6.3-6.9	<6	6-12	≥12	<2	2-4	≥4	<0.05	≥0.05
<b>(tonnes)</b>		6.1B, 6.3-6.9 (within 50 m of m.s.l.)	<2	2-4	≥4	<1	1-2	≥2	-	-
		6.1C	<20	20-40	≥40	<6	6-12	≥12	<0.3	≥0.3
		6.1C (within 50 m of m.s.l.)	<6	6-12	≥12	<2	2-4	≥4	<0.05	≥0.05
<b>CORROSIVE</b>	<b>8</b>	8.1, 8.2A, 8.3	<6	6-12	≥12	<2	2-4	≥4	<0.05	≥0.05
<b>(tonnes)</b>		8.2 B/C	<20	20-40	≥40	<10	10-20	≥20	<0.3	≥0.3
		9.1A, 9.2A, 9.3A, 9.4A	<0.5	0.5-1	>1	<0.5	0.5-1	>1	<0.5	>0.5
		(within 30 m of watercourse)	<0.1	0.1-0.3	>0.3	<0.1	0.1-0.3	>0.3	<0.1	>0.1
<b>ECO-TOXIC</b>	<b>9</b>	9.1B, 9.2B, 9.3B, 9.4B	<10	10-20	>20	<10	10-20	>20	<10	>10
<b>(tonnes)</b>		(within 30 m of watercourse)	<3	3-6	>6	<3	3-6	>6	<3	>3
		9.1C, 9.2C, 9.3C 9.4C	<30	30-60	>60	<30	30-60	>60	<30	>30
		(within 30 m of watercourse)	<10	10-20	>20	<10	10-20	>20	<10	>10
<b>HIGH BOD<sub>5</sub></b>	<b>-</b>	-	<100	100-200	>200	<40	40-80	>80	<40	>40
<b>(&gt;10,000 mg/l)</b>		(within 30 m of watercourse)	<40	40-80	>80	<20	20-40	>40	<20	>20

## Reasons

This decision is made for the following reasons:

- Increasing the quantity of LPG storage on residential properties is considered the most efficient and effective method providing and encouraging an alternative energy source for internal and water heating, and is consistent with national statutes and other industry standards.
- Adding the quantity specification (e.g. tonnes or cubic metres) to the Table of Hazardous Facilities assist plan interpretation and assist Plan users in better understanding the Plan provisions.

### 30 Appendix 3 – Schedule of Contaminated Sites

#### Submission Summary

Submitter Number	Submitter Name	Further Submitter Name and Number	Further Submission Support/Oppose
526.117	Wellington Regional Council	FS52 Horticulture New Zealand	Oppose

#### Discussion

**Greater Wellington Regional Council** (526.117) request the HAIL schedule be added to Appendix 3. **Horticulture New Zealand** (FS52) opposes this submission.

#### Evidence Heard

**Greater Wellington Regional Council** (526.117) partly supports the Section 42A report recommendation. Greater Wellington Regional Council stated that they accept the reservations given in the Section 42A report about the overly restrictive or vague nature of some items on the HAIL and support the removal of activities 49 (Waste storage, treatment and/or disposal including land disposal of wastes, but not the use of biosolids as soil conditioners), 52 (Any site that has been, or could be, subject to the migration of hazardous substances from hazardous substances present in soil or water on adjacent sites), and 53 (Any other facility or activity that stores, uses or disposes of hazardous substances, in sufficient quantity that intentional or accidental discharge of the substance could be a risk to human health or the environment) from the list. However they do not support removing industries 28 (Livestock dip or spray race operations), 29 (Market gardens, orchards, glass houses or other areas where the use of persistent agricultural chemicals occurred) or 48 (Storage tanks and drum storage for fuel, chemicals and liquid waste) from the list.

**Horticulture New Zealand** (FS52) spoke in support of their submission and provided evidence requesting submission 526.103 be rejected and addressed through a variation to the plan. Horticulture New Zealand seek renaming of the modified HAIL list so it is not confused with the full HAIL list.

#### Commissioners' Deliberations

As discussed above for Rule 21.3.4, the same evaluation applies to these submissions.

The Commissioners recognise the shortcomings of the proposed plan approach of listing sites in Appendix 3. The Commissioners concur with the Section 42A report that to manage this issue, an effective and efficient approach is using the Hazardous Activities and Industries List (HAIL) is a more effective approach.

In considering appropriate modifications, the Commissioners note the support from Greater Wellington Regional Council for the removal of activities 49 (land disposal of wastes, but not the use of biosolids as soil conditions), 52 (Any site that has been, or could be, subject to the migration of hazardous substances from hazardous substances present in soil or water on adjacent sites) and 53 (Any other facility or activity that stores, uses or disposes of hazardous substances, in sufficient quantity that intentional or accidental discharge of the substance could be a risk to human health or the environment) from the HAIL list.

In respect of activity 29 (Market gardens, orchards, glass houses or other areas where the use of persistent agricultural chemicals occurred) the Commissioners concur with Greater Wellington Regional Council and the Section 42A report that this activity listing is overly inclusive. However, it is considered efficient and effective that there is some form of control over these types of activities given the potential harm to human health and the environment from these activities. Amending the activity description by inserting the word 'commercial' before market gardens, and removal of the words 'or other areas where the use of persistent agricultural chemicals occurred' better expresses this activity for the potential risk in the Wairarapa context.

In respect of activity 48 (Storage tanks and drum storage for fuel, chemicals and liquid waste) the Commissioners concur with Greater Wellington Regional Council and the Section 42A report that the activity listing is not specific enough for inclusion in the District Plan. However, it is considered efficient and effective that there is some form of control over this type of activity given that some storage tanks historically used may not have been well sealed and may have leaked hazardous substances. The activity description is amended by inserting a size limit of 5,000 litres and amending the activity list to read 'Storage tanks over 5,000 litres capacity used for agricultural chemicals'.

Activity 28 relates to 'Livestock dip or spray race operations'. The Commissioners concur with the Section 42A report that the inclusion of this activity is overly restrictive, and not appropriate to the nature of activities in the Wairarapa.

The Commissioner consider it to be the most efficient and effective approach to amend Rule 21.3.4 to require consent for activities on potentially contaminated land, using a modified Wairarapa HAIL schedule. Reference to the schedule has been amended so as to take account of the modifications made.

## **Decision: Appendix 3 – Contaminated Sites**

Submission Reference:

526.117	Accept in part
FS52	Accept in part

## **Decision Amendment: Appendix 3 – Contaminated Sites**

Appendix 3 shall be amended to read as follows:

### ***~~Schedule of Contaminated Sites~~ Land***

Consequential Change:

### ***Appendix 3.1 Schedule of Contaminated Land***

Add a new schedule to Appendix 3 as follows:

### ***Appendix 3.2 Modified Wairarapa Hazardous Activities and Industry List (Wairarapa HAIL)***

***The Wairarapa HAIL (see below) defines industries and activities which typically use or store hazardous substances that could cause contamination if these substances escaped from safe storage, were disposed of on the site, or were lost to the environment through their use. The fact that an activity or industry appears on the list does not mean that hazardous substances were used or stored on all sites occupied by that activity or industry, nor that a site of this sort will have hazardous substances present in the land. The list merely indicates that such activities and industries are more likely to use or store hazardous substances and therefore there is a greater probability of site contamination occurring than other uses or activities. Conversely, where an activity or industry that does not appear on the list, this does not guarantee such a site will not be contaminated. Each case must be considered on its merits, considering the information at hand. In applying the list, it must be remembered that the activity may only have occupied a small part of the site, and therefore the possibility of contamination will also be for a small part of the site.***

Activity or Industry	Hazardous Substances
1. Abrasive blasting – carrying out abrasive blast cleaning (other than cleaning carried out in fully enclosed booths) or disposing of abrasive blasting material.	Dependent on material being removed, Heavy metals, iron
2. Acid/alkali plant, formulation and bulk storage.	Mercury, sulphuric, hydrochloric and nitric acids, sodium and calcium hydroxide
3. Agrichemical spray contractor's premises used for filling and washing out tanks for commercial agrichemical application.	Arsenic, lead, copper, organochlorine pesticides, organophosphate pesticides, herbicides, fungicides, carbamates, and synthetic pyrethroids
4. Airports – fuel storage, workshops, washdown areas, stormwater runoff from hardstanding.	Hydrocarbons, metals
5. Analysts – commercial analytical laboratory sites.	Solvents, acids, mercury
6. Asbestos products production and disposal. Also sites with buildings containing asbestos products known to be in a deteriorated condition.	Asbestos
7. Asphalt or bitumen manufacture or bulk storage – manufacturing asphalt or bitumen, or bulk storage of these products, other than at a single-use site used by a mobile asphalt plant.	Petroleum hydrocarbons, PAHs
8. Battery manufacture or recycling – assembling, disassembling, manufacturing or recycling batteries (other than storing batteries for retail sale).	Heavy metals (lead, mercury, zinc, cadmium, nickel, antimony, silver, manganese), sulphuric acid
9. Brake lining manufacturers, repairers and recyclers.	Asbestos, copper
10. Cement or lime manufacturing – manufacturing	Lime, calcium hydroxide, alkalis



cement or lime from limestone material using a kiln and storing wastes from the manufacturing process.	
11. Cemeteries	Nitrates, lead, formaldehyde, biological hazards
12. Chemical manufacture and formulation and bulk storage such that land use consent is required.	Wide range of organic and inorganic compounds – see AS 4482.1 Table II
13. Coal and coke yards.	PAHs
14 Concrete manufacture and bulk cement storage.	Cement, calcium hydroxide, alkalis
15. Defence works and defence establishments, including ordinance storage and training areas where live firing is carried out.	Explosives, lead, copper, antimony (firing ranges), solvents and metals (workshops), hydrocarbon storage
16. Drum and tank reconditioning or recycling.	Wide range of chemicals from drums
17. Dry cleaning plants – restricted to premises where dry cleaning is carried out and solvents are stored.	Trichloroethylene 1,1,1 - trichloroethane perchloroethylene, carbon tetrachloride, VOCs
18. Electrical transformers – manufacturing, repairing or disposing of electrical transformers or other heavy electrical equipment.	PCBs, hydrocarbons, copper, tin, lead, mercury
19. Electronics – manufacturing, reconditioning	Metals (e.g. Copper, Tin, Lead), Solvents
20. Engine reconditioning – use of solvents and degreasers	Solvents, hydrocarbons, heavy metals
21. Explosive production or bulk storage	Acetone, nitric and sulphuric acid, ammonium nitrate, fuel oil, PCP, nitroglycerine, lead, mercury, copper, aluminium, silver, sodium hydroxide, explosives
22 Fertiliser manufacture – manufacturing or bulk storage of agriculture fertiliser.	Calcium phosphate, calcium sulphate, copper chloride, sulphur, sulphuric acid, molybdenum, selenium, iron, cadmium, nitrates, ammonia
23. Foundry operations – commercial production of metal products by injecting or pouring molten metal into moulds and associated activities,	Metals, particularly iron, aluminium, lead, zinc, copper, tin, nickel, chromium and oxides, chlorides, fluorides and sulphates of these. Acids, coke, fuel oil
24. Gasworks – manufacture of town gas from coal or oil feedstocks.	PAHs, phenolics, BTEX, metals (particularly arsenic, lead, copper, chromium), cyanide compounds, sulphides and sulphates, thiocyanates, ammonia, nitrates, coke

25. Gun pistol or rifle ranges	Metals – lead, antimony, copper, zinc, tin, nickel
26. Iron and steel works	BTEX, phenolics, PAHs, metals and oxides of iron, nickel, copper, chromium, magnesium and manganese
27. Landfill sites	Dependent on original waste composition, Hydrocarbons, BTEX, PAHs, metals, organic acids, landfill gas, ammonia
29. Commercial market gardens, orchards, or glass houses.	Arsenic, lead, copper, organochlorines and organophosphates.
30. Metal treatment or coating – including polishing, anodising, galvanising, pickling, electroplating, heat treatment using cyanide compounds and finishing, curing works or commercially finishing leather.	Metals (zinc, aluminium, cadmium, chromium, lead, copper, tin), acids (sulphuric, nitric, hydrochloric, phosphoric), sodium hydroxide, solvents and degreasers, cyanide
31. Mining and extractive industries and mineral processing – including chemically or physically extracting metalliferous ores, exposure of faces or release of groundwater containing hazardous contaminants and storing hazardous wastes, including waste dumps and tailings dams, but not gravel extraction.	Arsenic, mercury, cyanides, sulphides, metals – also workshop activities, fuel storage
32. Motor vehicle workshops	Hydrocarbons, PAHs, solvents, metals
33. Paint manufacture and formulation	Solvents, resins, heavy metals
34 Pest control – commercially operating premises (or former pest destruction board, now regional council sites) where storage and preparation of pesticide occurs, including preparation of poisoned baits and filling or washing of tanks.	Arsenic, cyanide, strychnine, mercury, phosphorus, 1080, organochlorines and organophosphates, carbamates, and synthetic pyrethroids
35. Pesticide manufacture (including animal poisons, insecticides, fungicides and herbicides) – commercially manufacturing, blending, mixing or formulating pesticides.	Wide range of insecticides, herbicides and fungicides, including Arsenic, lead, mercury, copper, tin, chromium, organochlorines, organonitrogens, organophosphates, acid herbicides, dioxin, carbamates
36. Petroleum or petrochemical industries or storage, including oil production and operating a petroleum depot, terminal, blending plant or refinery, retail or commercial refuelling facility, and facilities for recovery, reprocessing or recycling petroleum based materials and bulk storage above and below ground.	Hydrocarbons, including BTEX, PAHs, solvents, lead
37, Pharmaceutical manufacture – commercially manufacturing, blending, mixing or formulating pharmaceuticals, including animal remedies.	Solvents

38. Port activities – including dry docks and ship and boat maintenance facilities.	Metals, paint residues (tin, lead), fuel storage
39. Power stations and switchyards	PCBs asbestos metals (in fly ash), water treatment chemicals (thermal stations)
40. Printing – commercial printing, using metal type, inks and dyes, or solvents	Solvents, acids, alkalis, heavy metals
41. Railway yards – operating a railway yard including goods-handling yards, workshops, refuelling facilities and maintenance areas.	Hydrocarbons, heavy metals, solvents, creosote
42. Sawmills – use of antisapstain chemicals during milling.	Antisapstain fungicides, PCP, hydrocarbons
43. Scrap yards – operating a scrap yard including automotive dismantling or wrecking yard or scrap metal yard.	Metals, hydrocarbons, solvents
44. Service stations	Hydrocarbons, lead, copper
45. Smelting or refining – fusing or melting metalliferous ores or refining the metal.	Metals and oxides, fluorides, and chlorides thereof
46. Tannery, fellmongery or hide curing – operating a tannery or fellmongery or hide curing works or commercially finishing leather.	Chromium, manganese, copper, ammonia, sulphides, acids, sodium hydroxide, lime, formaldehyde, solvents, cyanide
47. Transport depots	Dependent on products being transported, hydrocarbons, metals and solvents in workshops
48. Storage tanks over 5,000 litres capacity used for agricultural chemicals	Arsenic, lead, copper, organochlorine pesticides, organophosphate pesticides, herbicides, fungicides, carbamates, and synthetic pyrethroids
50. Wood treatment and preservation and bulk storage of treated timber.	PCPI copper, arsenic, chromium, boron organo-tin, PAHS and phenolics (creosote), organochlorine pesticides.
51. Wool, hide and skin merchants (e.g. drying, scouring).	Detergents, Pesticides, Bleaching agents (e.g. hydrogen peroxide)

***Note: The numbering in the above table is based on the Ministry for the Environment Guidelines, as amended for inclusion within the Wairarapa Combined District Plan.***

## Reasons

This decision is made for the following reasons:

- The application of a modified HAIL schedule is considered the most efficient and effective approach for managing activities on potentially contaminated land to achieve the objective for contaminated land.
- The application of HAIL and assessment of resource consent would ensure that proper and safe measures are undertaken and that remediation practices will not lead to further degradation of the site, surrounding environment or present a risk to human health.