



Section 42A Report to the District Plan Review Hearing Panel

Proposed Horowhenua District Plan Hazardous Substances and Contaminated Land

April 2013



Hearing Date: 30 April 2013
Report Prepared by: Sheena McGuire
Report Number: 11.01

NOTE TO SUBMITTERS

Submitters should note that the hearings on the Proposed District Plan have been organised according to topic. A total of 14 hearings are scheduled to hear submissions on each of the 14 topics. The topic which is the subject of this report is Hazardous Substances and Contaminated Land.

It is very likely that submitters who have made submission points in relation to Chapter 9 - Hazardous Substances and Contaminated Land and Chapter 23 Hazardous Substances may have also made submission points on other parts of the Proposed Plan. This report only addresses those submission points that are relevant to the subject of this report.

The hearings of submissions to the Proposed District Plan are being collectively heard by a Panel of eight commissioners. The appointed commissioners include a combination of local Councillors and independent commissioners. In most cases each hearing will be heard by a panel of three commissioners selected from the eight panel members. This does mean that different commissioners will be sitting on different hearings. It therefore will require submitters to ensure that when speaking at a hearing that they keep to their submission points that have been covered by the Planning Report for that hearing.

To assist submitters in finding where and how their submissions have been addressed in this report, a submitter index has been prepared and can be found at the very end of the report. The index identifies the page number(s) of where the submitter's submission points have been addressed in the report.

Submitters may also find the table contained in Section 6.2 of this report helpful as it identifies the Reporting Officer's recommendation to the Hearing Panel on every submission point and further submission point addressed in this report.

EXECUTIVE SUMMARY

The Horowhenua District Plan has been operative for over 13 years (since 13 September 1999). During this time Council has undertaken a number of plan changes the majority have been a minor technical nature. In 2009 Council publicly notified three substantive plan changes that sought to address Rural Subdivision, Urban Growth and Outstanding Natural Features and Landscapes. A significant portion of the Operative District Plan has not be reviewed or modified since becoming operative in 1999. The Council in fulfilling its statutory duties has undertaken a review of those parts of the District Plan that have not been subject of a plan change after 2008.

This report focuses on the topic of Hazardous Substances and Contaminated Land. The relevant provisions within the Proposed Plan are largely contained within Chapter 9 (Hazardous Substances and Contaminated Land) and Chapter 23 (Hazardous Substances) with some related provisions appearing in the Zone Rules, Assessment Criteria and General Provision chapters of the Proposed Plan. The related relevant provisions within the Operative District Plan have not been the subject of any plan change or review since the District Plan became operative.

The Proposed District Plan was publicly notified for submissions on 14 September 2012. The period for further submissions closed 20 December 2012. Through the public notification process a number of submissions were received supporting and opposing the Proposed Plan provisions. These submissions have supported some provisions requesting they be adopted as proposed, while others have requested changes to the wording or deletion of specific changes.

The purpose of this report is to summarise the key issues raised in submissions and to provide advice to the District Plan Review Hearings Panel on the issues raised. All submission points have been evaluated in this report, with specific recommendations for each point raised within each submission. These recommendations include amendments to the Proposed Plan, including refinements to the wording of some provisions. Whilst recommendations are provided, it is the role of the District Plan Review Hearing Panel to consider the issues, the submissions received, the evidence presented at the hearing, and the advice of the reporting planner for Council before making a decision.

The officer's recommendations on the key issue raised in the submissions include:

- Removing the responsibility for Council to consider the adverse environmental effects of the disposal of hazardous substances as this is a function and responsibility of the Regional Council not the District Council.
- Providing consistency with relevant applicable national Guidelines and Group Standards for those exempt activities involving hazardous substances.
- Providing clarity around the distinction between management measures and remediation in avoiding or mitigating the adverse environmental effects of the use of contaminated land.

The District Plan Review Hearings Panel in making its decisions will determine whether to accept, reject or accept in part, the submissions received, and as a consequence, any amendments to be made to the Proposed Plan.

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1. Introduction

1.1 Qualifications

My full name is Sheena McGuire. I hold a Bachelor of Resource and Environmental Planning (Honours) degree from Massey University, Palmerston North, New Zealand. I am a Graduate Member of the New Zealand Planning Institute. I am a Policy Planner at Horowhenua District Council and I have been involved with the review of the Horowhenua District Plan since joining in September 2011. My involvement has included assistance with the preparation of District Plan Discussion Documents including researching and evaluating issues and options for Plan provisions, drafting and reviewing Plan provisions for both Councillor Workshops and District Plan Review Advisory Group Meetings and preparation and review of the notified Proposed District Plan and Section 32 Reports. My involvement now includes the preparation and review of Section 42A Reports.

1.2 Purpose

The purpose of this report is to assess the Proposed District Plan in terms of the relevant statutory considerations and obligations, taking into account those issues raised in submissions, and an analysis of the appropriateness and effectiveness of the proposed provisions in providing for the effective management of hazardous substances and contaminated land in the Horowhenua District. I provide my findings and recommendations to the Hearings Panel in accordance with Section 42A of the Resource Management Act.

1.3 Outline

This report considers submissions and further submissions which were received on “Chapter 9 - Hazardous Substances and Contaminated Land” and “Chapter 23 - Hazardous Substances” and well as associated rules and definitions in Chapters 15, 19, 20, 25 and 26 of the Proposed Horowhenua District Plan (referred to in this report as “the Proposed Plan”). This report has been prepared in accordance with Section 42A of the Resource Management Act (“the RMA”) to assist the Hearings Panel with its consideration of submissions received in respect of the provisions in these parts of the Proposed Plan.

This report is structured according to the following format:

- An overview of the Proposed Plan provisions
- Statutory Requirements
- Analysis of Submissions
- Recommended Amendments to Proposed Plan

The report discusses each submission or groups of similar submissions and includes a recommendation from the report writer on each submission that has received, **but the recommendation is not the decision of the Horowhenua District Council** (“the Council”).

Following consideration of all the submissions and supporting evidence, if any, presented by the submitters and further submitters at the hearing, the Hearings Panel will make a decision on the submissions. The decision report prepared by the Hearing Panel will include the Hearing Panel’s decision to accept, accept in part, or reject individual submission points, and any amendments to the Proposed Plan. All recommendations in this report are subject to consideration of any further evidence provided by submitters at the hearing.

The amendments to the Proposed Plan arising from the staff recommendations discussed throughout this report are listed in full in Section 6.2. The suggested amendments are set out in the same style as the Proposed Plan.

The Analysis of Submissions section has been structured by grouping submission points according to individual provisions in the Proposed Plan. As far as possible, the individual submission points are listed in order to match the contents of each Plan provision. The submission points relating to text or maps are listed first.

Each submission and further submission has been given a unique number (e.g. 58). Further submissions follow the same number format although they start at the number 500, therefore any submitter number below 500 relates to an original submission and any submitter number of 500 or higher relates to a further submission.

In addition to the submission number, each submission point (relief sought) has been given a unique number (e.g. 01). When combined with the submitter number, the submission reference number reads 58.01, meaning submitter number 58 and submission point number 01. A similar numbering system has been used for further submissions.

This report contains selected text from the Proposed Plan itself, either when changes have been requested by a submitter or where a change is recommended by Council officers or advisers. Where changes to the text are recommended in this report the following protocols have been followed:

- New additional text is recommended is shown as underlined (i.e. abcdefghijkl)
- Existing text is recommended to be deleted is shown as struck-out (i.e. ~~abcdefghijkl~~)

2. Proposed Horowhenua District Plan

2.1 Background

In November 2009, Council resolved to undertake a full review of its Operative District Plan. Under Section 79 of the RMA, the Council is required to commence a review of its District Plan provisions which have not been reviewed in the previous 10 years. The Council has undertaken 23 District Plan changes since the District Plan was made operative in September 1999. These Plan Changes addressed a wide range of issues, with the most recent Plan Changes including rural subdivision, urban growth, outstanding natural features and landscapes, and financial contributions. Whilst these Plan Changes covered a number of the provisions in the District Plan, many other provisions had not been changed or reviewed. Accordingly, the Council decided to do a full review of the rest of the District Plan, including the earlier Plan Changes. This review did not cover the most recent Plan Changes 20 – 22 which were not operative at the time the Proposed Plan was notified.

Chapter 9 Hazardous Substances and Contaminated Land provides an updated version of a similar section in the Operative Plan which provides issues, objectives, policies and methods for the management of hazardous substances and contaminated land in the District. Chapter 23 Hazardous Substances provides a revised and updated version of a similar section in the Operative Plan which outlines the permitted quantity limits of hazardous substances in each zone.

2.2 Consultation & Process

As outlined in the Section 32 Report associated with the Proposed Plan, general and targeted consultation has been undertaken for the District Plan Review from 2009. The general consultation was undertaken in two phases: 1. Survey and 2. Discussion Document (refer to the Section 32 Report for further details on the consultation approach and process).

General consultation has been undertaken in relation to hazardous substances and contaminated land. This consultation was carried out as part of the District Plan Review Discussion Document (October 2011) which provided the opportunity for people to raise general comments. In addition, discussions have been held with parties who may have an interest in this subject.

The rural industry group provided comment on the classification of hazardous substances and the use of tables used to define permitted hazardous substances quantity limits for hazardous facilities. Such tables are technical in nature and require clear associated provisions to ensure plan users can interpret and apply the appropriate measures in practice.

Both Federated Farmers of New Zealand Inc and Horticulture New Zealand highlighted the Code of Practice for the Management of Agrichemicals as a set of standards that could be referenced in the Proposed Plan to avoid duplication and provide clarity for plan users familiar with the Code of Practice.

In addition, Council engaged hazardous substances expert Kerry Laing of Kerrich Environmental Limited to undertake a review of the Threshold Hazard Factor approach to the management of hazardous substances in the Operative Plan. This review sought to provide an up-to-date approach to the management of hazardous substances in the Proposed Plan and align with amendments to the Hazardous Substances and New Organisms Act.

2.2.1 Late Submissions

No late submissions were received which raised matters relating to Chapter 9 Hazardous Substances and Contaminated Land or Chapter 23 Hazardous Substances.

3. Statutory Requirements

3.1 Resource Management Act 1991

In preparing a District Plan, Council must fulfil a number of statutory requirements set down in the Resource Management Act, including:

- Part II, comprising Section 5, Purpose and Principles of the Act; Section 6, Matters of National Importance; Section 7, Other Matters; and Section 8, Treaty of Waitangi;
- Section 31, Functions of Territorial Authorities;
- Section 32, Duty to consider alternatives, assess benefits and costs;
- Section 72, Purpose of district plans
- Section 73, Preparation and change of district plans;
- Section 74, Matters to be considered by territorial authorities;
- Section 75, Contents of district plans
- Section 76, District Rules

Below I have summarised the key matters from the above requirements which are particularly relevant to this report. The relevant aspects of the above matters have been considered in the analysis of the submissions in Section 4 of this report.

Under Sections 30 and 31 of the RMA, Regional Councils and Territorial Authorities (e.g. District Councils) have shared responsibility for the prevention or mitigation of any adverse effects of the storage, use, disposal, or transportation of hazardous substances. The Regional Policy Statement is to provide direction and clarity on this shared responsibility (discussed further below). In addition, under The RMA sets functions and responsibilities to the Horowhenua District Council in relation to hazardous substances and contaminated land. Below is an outline of the key legislative and statutory planning documents relevant to hazardous substances and contaminated land and activities in the District.

Section 31 of the RMA states that territorial authorities are responsible for the prevention or mitigation of any adverse effects of the development, subdivision, or use of contaminated land.

The relevant aspects of the above matters have been considered in the analysis of the submissions in Section 4 of this report.

3.2 Proposed Amendments to Resource Management Act

Central government has initiated a reform of the Resource Management Act (RMA) with a focus on reducing delays and compliance costs. The reform is being undertaken in two phases. Phase 1 focused on streamlining and simplifying the RMA, including changes to the preparation of district plans. Phase 2 focuses on more substantive issues concerning freshwater, aquaculture, urban design, infrastructure and the Public Works Act. Work on Phase 1 commenced late in 2008, while work on Phase 2 commenced in mid-2009.

The Phase 1 work culminated in the Resource Management (Simplifying and Streamlining) Amendment Act 2009, which came into force in October 2009. In respect of the Horowhenua District Plan and the Proposed Plan, the main effect of this Amendment Act have been process related to the further submission process, ability for simplified decision reports and notices, and changes when rules have effect.

In terms of Phase 2, in December 2012 the Resource Management Reform Bill was introduced to Parliament for its first reading and was referred to the Local Government and Environment Committee for submissions and consultation. In terms of District Plan Reviews and Proposed District Plans, this Bill propose changes in relation to the analysis that underpins District Plans including greater emphasis on the need for quantitative assessment of costs and benefits and the need to consider regional economic impact and opportunity costs, and ensuring decision-making is based on adequate, relevant, and robust evidence and analysis, and to increase the level of transparency of decision-making. It is noted this Bill includes transitional provisions which state these new assessment and decision-making requirements do not apply to proposed plans after the further submission period has closed (refer Schedule 2, Clause 2 of the Bill).

Central government is also considering further changes to the RMA. In late February 2012 the government released a discussion document on proposals it is considering to change the RMA. The proposed reform package identifies six proposals:

Proposal 1: Greater national consistency and guidance

Proposal 2: Fewer resource management plans

Proposal 3: More efficient and effective consenting

Proposal 4: Better natural hazard management

Proposal 5: Effective and meaningful Iwi/Maori participation

Proposal 6: Working with councils to improve practice

At the time of writing this report, there have been no announcements or other research relating to the subjects of this report.

3.3 Local Government Act 2002

The Local Government Act 2002 (LGA) is designed to provide democratic and effective local government that recognises the diversity of New Zealand communities. It aims to accomplish this by giving local authorities a framework and power to decide what they will do and how. To balance this empowerment, the legislation promotes local accountability, with local authorities accountable to their communities for decisions taken.

The LGA also provides local authorities to play a broad role in meeting the current and future needs of their communities for good-quality local infrastructure, local public services, and performance of regulatory functions. Section 14 of the LGA sets out the principles of local government with one of the principles stating:

(h) in taking a sustainable development approach, a local authority should take into account—

(i) the social, economic, and cultural interests of people and communities; and

(ii) the need to maintain and enhance the quality of the environment; and

(iii) the reasonably foreseeable needs of future generations

The above role and principle generally align with the overall purpose and principles of the Resource Management Act.

There are no other specific provisions in the LGA relevant to the subject matter of this report.

3.4 National Environmental Standards

National Environmental Standard for Assessing and Managing Contaminated Soil to Protect Human Health (January 2012)

National Environmental Standards (NES) are effectively rules that apply nation-wide. City and District Councils are required to give effect to and enforce the requirements of the NES and regional and district plans generally cannot provide alternative rules that are more lenient or restrictive.

The NES for Assessing and Managing Contaminants in Soil to Protect Human Health provides a nationally consistent set of planning controls and soil contaminant values and ensures that land affected by contaminants in soil is appropriately identified and assessed before it is developed - and if necessary the land is remediated or the contaminants contained to make the land safe for human use.

The NES classifies as permitted activities (meaning no resource consent is required if stated requirements are met):

- removal or replacement of fuel storage systems and associated soil, and associated subsurface soil sampling.

- soil sampling
- small-scale (no greater than 25 cubic metres per 500 square metres of affected land) and temporary (two months' duration) soil disturbance activities
- subdividing land or changing land use where a preliminary investigation shows it is highly unlikely the proposed new use will pose a risk to human health.

Activities requiring a resource consent under the NES include:

- the development of land where the risk to human health from soil contamination does not exceed the applicable soil contaminant value (classified as a controlled activity, meaning resource consent must be granted).
- the development of land where the risk to human health from soil contamination exceeds the applicable soil contaminant value (classified as a restricted discretionary activity).
- the development of land where the activity does not meet the requirements to be a restricted discretionary, controlled or permitted activity (classified as a discretionary activity).

3.5 National Legislation

3.5.1 Hazardous Substances and New Organisms Act 1996

The Hazardous Substances and New Organisms Act 1996 (HSNO) governs the use and management of hazardous substances. It sets minimum performance standards for all hazardous substances in relation to containment, packaging, identification/labelling, competency of handling, emergency procedures and disposal, regardless of where they are used, stored, transported or disposed of. The RMA is intended to perform a complimentary function, addressing site specific issues with the particular location or land use involving hazardous substance use (i.e. site design and separation from sensitive uses).

Other Legislation

There are other pieces of legislation which set out and provide for the management of hazardous substances and contaminated land. These include:

- Building Act 2004 - safe storage of hazardous substances (s6(2)(c)).
- Fire Service Act 1975 - incidents involving hazardous substances are considered to be emergencies that are attended by the Fire Service.
- Health Act 1956 - control nuisances, offensive trades, and the handling and storage of noxious substances.
- Radiation Protection Act 1965 - deals with control of radioactive substances
- Health and Safety in Employment Act 1992 - hazard identification, analysis and management.
- Agricultural Compounds and Veterinary Medicines Act 1997 - registration and use of chemicals.
- Transport Act 1962 and Land Transport Act 1998 - transport of hazardous substances on land.

3.6 Operative Regional Policy Statement & Proposed One Plan

Under Section 74(2) of the Resource Management Act, the Council shall have regard to any proposed regional policy statement, in this case, the Horizons Regional Council Proposed One

Plan. In addition, under Section 75(3)(c) of the Resource Management Act, a District Plan must give effect to any Regional Policy Statement. The Operative Manawatu-Wanganui Regional Policy Statement became operative on 18 August 1998. The Proposed One Plan (incorporating the Proposed Regional Policy Statement) was publicly notified on May 2007 and decisions on submissions notified in August 2010. In total 22 appeals were received, with some resolved through mediation while others were heard by the Environment Court. Interim decisions were issued by the Environment Court in August 2012 with final decisions expected in early 2013. In addition, Federated Farmers of NZ Inc and Horticulture NZ have appealed these interim decisions to the High Court in relation to non-point source discharges and run-off (nutrient management).

Given the very advanced nature of the Proposed One Plan in the plan preparation process and that all matters relevant to the District Plan Review are beyond challenge, the Proposed One Plan is considered the primary Regional Policy Statement and should be given effect to by the Proposed District Plan.

Chapter 3 of the Proposed One Plan contains the Regions significant resource management issues, objectives, policies and methods relating to hazardous substances and contaminated land. The relevant objective and policies are listed below:

Objective 3-2: Waste*, hazardous substances* and contaminated land^

The Regional Council and Territorial Authorities^ must work together in a regionally consistent way to:

- (i) minimise the quantity of waste* generated in the Region and ensure it is disposed of appropriately,*
- (ii) manage adverse effects^ from the use, storage, disposal and transportation of hazardous substances*, and*
- (iii) manage adverse effects^ from contaminated land^.*

3.4.4 Hazardous Substances*

Policy 3-10: Responsibilities for the management of hazardous substances*

In accordance with s62(1)(i) RMA, local authority^ responsibilities for the management of hazardous substances in the Region are as follows:*

- (a) The Regional Council must be responsible for developing objectives, policies and methods to control the use of land^ for the purpose of preventing or mitigating the adverse effects^ of the disposal of hazardous substances**
- (b) Territorial Authorities^ **must be responsible for developing objectives, policies and methods to control the use of land^ for the purpose of preventing or mitigating the adverse effects^ of the storage, use or transportation of hazardous substances*(emphasis added).***

Policy 3-11: Regulation of hazardous substances*

The Regional Council must not grant resource consents^ for discharges^ that contain or result in the production of environmentally persistent hazardous chemicals or hazardous chemicals that will bioaccumulate to a level that has acute or chronic toxic effects^ on humans or other non-target species.

3.4.5 Contaminated Land^

Policy 3-12: Identification of priority contaminated land^

The Regional Council and Territorial Authorities^ shall jointly identify priority contaminated land^.

Priority contaminated land^ is land^ that:

- (a) is listed on a register of verified contaminated land^ held by the Regional Council or a Territorial Authority^, or*
- (b) would have been the site* of an activity identified on the Hazardous Activities and Industries List (Ministry for the Environment, 2004a), including horticulture and sheep dips, and site* investigations have verified that the land^ is contaminated, and*

(c) is expected to be subject to a change of land use within the next 10 years that is likely to increase the risks to human health or the environment, including where land is identified for future residential zoning or where a specific development is proposed.

Policy 3-13: Management of priority contaminated land

Where land use changes are likely to increase the risks to human health or the environment from priority contaminated land (as identified under Policy 3-12) the Regional Council and Territorial Authorities must ensure that:

- (a) the landowner or land developer fully investigates the extent and degree of contamination prior to the granting of consent allowing development (assistance with investigations may be provided by the Regional Council in some cases),*
- (b) land is made suitable for its intended use through an appropriate level of remediation or management (including engineering) controls, and*
- (c) land remains suitable for its intended use through appropriate monitoring of residual contaminant levels and associated risks and through the use of management controls on the activities undertaken on the land.*

The above policies direct the roles and responsibilities of Horizons and HDC in relation to hazardous substances, HDC is responsible for developing objectives, policies and methods (including rules) to control the use of land for the purpose of preventing or mitigating the adverse effects of the “storage, use or transportation” of hazardous substances. Horizons are responsible for the control of the use of land for the purpose of preventing or mitigating the adverse effects of the “disposal” of hazardous substances.

3.7 Operative Horowhenua District Plan

As noted above, Operative Horowhenua District Plan has been operative for over 13 years (since 13 September 1999) and a number of plan changes made. None of these plan changes directly addressed the subjects of this report (i.e. Hazardous Substances and Contaminated Land).

In the Operative District Plan, there are standards for sites involving the storage, use, disposal and transportation of hazardous substances and a simple threshold method outlining three classes of hazardous substances according to risk and magnitude of potential adverse effects. These provisions in the Plan, and the system used to classify and describe hazardous substances predate the current HSNO legislation. The review of the hazardous substance provisions concluded it was appropriate to revise the classifications in the Plan to be consistent with the system of the Hazardous Substances (Classification) Regulations 2001.

Furthermore, no changes have been made to the Operative District Plan since the NES for Assessing and Managing Contaminated Soil to Protect Human Health came into effect at the start of 2012. Therefore, the Proposed Plan provisions are to be consistent with and not conflict with the NES.

4. Analysis of Submissions

4.1 Issue 9.1 Hazardous Substances

4.1.1 Submissions Received

Sub No.	Submitter Name	Support/ In-Part/ Oppose	Summary of Submission	Decision Requested	Further Submission
93.00	The Oil Companies	Support	Supports Issue 9.1.	Retain intent of Issue 9.1	

One submission was received in support of Issue 9.1.

4.1.2 Discussion & Evaluation

1. The support of Issue 9.1 by the Oil Companies (93.00) is noted. As there are no other submission points in opposition of Issue 9.1, I recommend submission point 93.00 be accepted.

4.1.3 Reporting Officer's Recommendation

Sub. No	Further Sub. No.	Submitter Name	Further Submitter Position	Officer's Recommendation
93.00		The Oil Companies		Accept

4.1.4 Recommended Amendments to the Plan Provisions

No amendments are recommended to Issue 9.1.

4.2 Issue Discussion for Issue 9.1

4.2.1 Submissions Received

Sub No.	Submitter Name	Support/ In-Part/ Oppose	Summary of Submission	Decision Requested	Further Submission
93.12	The Oil Companies	Support	Support the issue discussion to the extent that it identifies the respective roles and responsibilities of the regional and district councils in managing contaminated land and the role of the NES in directing the requirement for consent or otherwise for activities on contaminated or potentially contaminated land.	Retain intent of Issue 9.1 Discussion.	

One submission was received in support of the Issue Discussion for Issue 9.1.

4.2.2 Discussion & Evaluation

1. The support of the Issue Discussion for Issue 9.1 by the Oil Companies (93.12) is noted. As there are no other submission points in opposition of the Issue Discussion, I recommend submission point 93.12 be accepted.

4.2.3 Reporting Officer's Recommendation

Sub. No	Further Sub. No.	Submitter Name	Further Submitter Position	Officer's Recommendation
93.12		The Oil Companies		Accept

4.2.4 Recommended Amendments to the Plan Provisions

No amendments are recommended to the Issue Discussion for Issue 9.1.

4.3 Objective 9.1.1 Hazardous Substances

4.3.1 Submissions Received

Sub No.	Submitter Name	Support/ In-Part/ Oppose	Summary of Submission	Decision Requested	Further Submission
93.01	The Oil Companies	Support	Supports Objective 9.1.1	Retain intent of Objective 9.1.1	
27.10	Horizons Regional Council	In-Part	Oppose the inclusion of the word 'disposal'. Disposal of hazardous substances is a Regional Council function specified within Policy 3-10(a) of the POP and should not sit within a District Plan objective.	Delete the word disposal from Objective 9.1.1: To ensure that adequate measures are taken to avoid or mitigate the adverse environmental effects of the use, storage, and transport and disposal of hazardous substances.	517.17 Horticulture NZ – In-Part

Two submissions were received on Objective 9.1.1. The Oil Companies submitted in support of Objective 9.1.1 and Horizons Regional Council sought amendment to clarify and provide certainty for responsibilities of Council in the management of hazardous substances as set out in the Proposed One Plan.

4.3.2 Discussion & Evaluation

1. Horizons Regional Council (27.10) support Objective 9.1.1 in part. This submission point is supported in part by Horticulture NZ (517.17).
2. Horizons seek amendment to ensure that the Objective 9.1.1 aligns with the responsibilities and functions of the management of hazardous substances as outlined in the Proposed One

Plan. The disposal of hazardous substances is identified in the Proposed One Plan as a Regional Council function and I recommend that the Objective is amended to remove reference to the disposal of hazardous substances which is not deemed to be the responsibility of the District Council. I recommend that submission point 27.10 be accepted and 517.17 be accepted in part.

- The Oil Companies (93.01) made a submission in support of Objective 9.1.1. I note this support and recommend that this submission point be accepted.

4.3.3 Reporting Officer's Recommendation

Sub. No	Further Sub. No.	Submitter Name	Further Submitter Position	Officer's Recommendation
27.10		Horizons Regional Council		Accept
	517.17	Horticulture NZ	In-Part	Accept In-Part
93.01		The Oil Companies		Accept

4.3.4 Recommended Amendments to the Plan Provisions

Amend Objective 9.1.1 to read:

"To ensure that adequate measures are taken to avoid or mitigate the adverse environmental effects of the use, storage, and transport ~~and disposal~~ of hazardous substances."

4.4 Policy 9.1.2

4.4.1 Submissions Received

Sub No.	Submitter Name	Support/ In-Part/ Oppose	Summary of Submission	Decision Requested	Further Submission
93.02	The Oil Companies	Support	Support the general approach set out in Policy 9.1.2.	Retain intent of Policy 9.1.2	

One submission was received in support of Policy 9.1.2.

4.4.2 Discussion & Evaluation

- The support of Policy 9.1.2 by the Oil Companies (93.02) is noted. As there are no other submission points in opposition of the policy, I recommend submission point 93.02 be accepted.

4.4.3 Reporting Officer's Recommendation

Sub. No	Further Sub. No.	Submitter Name	Further Submitter Position	Officer's Recommendation
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Sub. No	Further Sub. No.	Submitter Name	Further Submitter Position	Officer's Recommendation
93.02		The Oil Companies		Accept

4.4.4 Recommended Amendments to the Plan Provisions

No amendments are recommended to Policy 9.1.2.

4.5 Policy 9.1.3

4.5.1 Submissions Received

Sub No.	Submitter Name	Support/ In-Part/ Oppose	Summary of Submission	Decision Requested	Further Submission
93.03	The Oil Companies	Support	Support the general approach set out in Policy 9.1.3.	Retain intent of Policy 9.1.3	
98.31	Horticulture NZ	Support	Horticulture NZ supports Policy 9.1.3 that seeks to provide for land use activities to use of hazardous substances through avoiding or mitigating adverse effects.	Retain Policy 9.1.3.	

One submission was received in support of Policy 9.1.3.

4.5.2 Discussion & Evaluation

1. The support of Policy 9.1.3 by the Oil Companies (93.03) and Horticulture NZ (98.31) is noted. As there are no other submission points in opposition of Policy 9.1.3, I recommend submission points 93.03 and 98.31 be accepted.

4.5.3 Reporting Officer's Recommendation

Sub. No	Further Sub. No.	Submitter Name	Further Submitter Position	Officer's Recommendation
93.03		The Oil Companies		Accept
98.31		Horticulture NZ		Accept

4.5.4 Recommended Amendments to the Plan Provisions

No amendments are recommended to Policy 9.1.3.

4.6 Policy 9.1.4

4.6.1 Submissions Received

Sub No.	Submitter Name	Support/ In-Part/ Oppose	Summary of Submission	Decision Requested	Further Submission
93.04	The Oil Companies	Support	Support the general approach set out in Policy 9.1.4.	Retain intent of Policy 9.1.4	

One submission was received in support of Policy 9.1.4.

4.6.2 Discussion & Evaluation

1. The support of Policy 9.1.4 by the Oil Companies (93.04) is noted. As there are no other submission points in opposition of the policy, I recommend submission point 93.04 be accepted.

4.6.3 Reporting Officer's Recommendation

Sub. No	Further Sub. No.	Submitter Name	Further Submitter Position	Officer's Recommendation
93.04		The Oil Companies		Accept

4.6.4 Recommended Amendments to the Plan Provisions

No amendments are recommended to Policy 9.1.4.

4.7 Policy 9.1.5

4.7.1 Submissions Received

Sub No.	Submitter Name	Support/ In-Part/ Oppose	Summary of Submission	Decision Requested	Further Submission
27.11	Horizons Regional Council	In-Part	Oppose the inclusion of the word 'disposal'. Disposal of hazardous substances is a Regional Council function specified within Policy 3-10(a) of the POP and should not sit within a District Plan objective.	Delete the word disposal from Policy 9.1.5: Limit the use, <u>and</u> storage and disposal of hazardous substances near any of the following areas...	517.18 Horticulture NZ – In-Part
93.05	The Oil Companies	Support	Support the general approach set out in Policy 9.1.5.	Retain intent of Policy 9.1.5	

Two submissions were received on Policy 9.1.5. The Oil Companies submitted in support of Policy 9.1.5 and Horizons Regional Council sought amendment to clarify and provide certainty for

responsibilities of Council in the management of hazardous substances as set out in the Proposed One Plan.

Policy 9.1.5 reads as follows:

"Limit the use and storage, and avoid disposal, of hazardous substances near any of the following areas:

- waterbodies or wetlands;
- areas of outstanding natural features and landscapes;
- significant ecological sites;
- sites of particular heritage or cultural value;
- popular recreational areas; and
- dwellings, other than a dwelling on the same site as the activity."

4.7.2 Discussion & Evaluation

1. Horizons Regional Council (27.11) support Policy 9.1.5 in part. This submission point is supported in part by Horticulture NZ (517.18).
2. Horizons seek amendment to ensure that the policy aligns with the responsibilities and functions of the management of hazardous substances as outlined in the Proposed One Plan. The disposal of hazardous substances is identified in the Proposed One Plan as a Regional Council function and I recommend that Policy 9.1.5 is amended to remove reference to the disposal of hazardous substances. I recommend that submission point 27.11 be accepted and 517.18 be accepted in part.
3. The Oil Companies (93.05) made a submission in support of Policy 9.1.5. I note this support and recommend this submission point be accepted.

4.7.3 Reporting Officer's Recommendation

Sub. No	Further Sub. No.	Submitter Name	Further Submitter Position	Officer's Recommendation
27.11		Horizons Regional Council		Accept
	517.18	Horticulture NZ	In-Part	Accept In-Part
93.05		The Oil Companies		Accept

4.7.4 Recommended Amendments to the Plan Provisions

Amend Policy 9.1.5 to read:

"Limit the use, and storage and disposal of hazardous substances near any of the following areas:..."

4.8 Policy 9.1.6

4.8.1 Submissions Received

Sub No.	Submitter Name	Support/ In-Part/ Oppose	Summary of Submission	Decision Requested	Further Submission
27.12	Horizons Regional Council	In-Part	Oppose the inclusion of the word 'disposal'. Disposal of hazardous substances is a Regional Council function specified within Policy 3-10(a) of the POP and should not sit within a District Plan objective.	Delete the word disposal from Policy 9.1.6: Establish controls to ensure that facilities which involve the use, storage, or transport or disposal of hazardous substances...	517.19 Horticulture NZ – In-Part
93.06	The Oil Companies	Support	Support the general approach set out in Policy 9.1.6.	Retain intent of Policy 9.1.6	

Two submissions were received on Policy 9.1.6. The Oil Companies submitted in support of Policy 9.1.6 and Horizons Regional Council sought amendment to clarify and provide certainty for responsibilities of Council in the management of hazardous substances as set out in the Proposed One Plan.

Policy 9.1.6 read as follows:

" Establish controls to ensure that facilities which involve the use, storage, transport or disposal of hazardous substances are located, designed, constructed and managed to avoid, remedy or mitigate adverse effects on the environment and/or human health."

4.8.2 Discussion & Evaluation

1. Horizons Regional Council (27.12) support Policy 9.1.6 in part. This submission point is supported in part by Horticulture NZ (517.19).
2. Horizons seek amendment to ensure that the policy aligns with the responsibilities and functions of the management of hazardous substances as outlined in the Proposed One Plan. The disposal of hazardous substances is identified in the Proposed One Plan as a Regional Council function and I recommend that Policy 9.1.6 is amended to remove reference to the disposal of hazardous substances. I recommend that submission point 27.11 be accepted.
3. The Oil Companies (93.06) made a submission in support of Policy 9.1.6. I note this support and recommend that this submission point be accepted.

4.8.3 Reporting Officer's Recommendation

Sub. No	Further Sub. No.	Submitter Name	Further Submitter Position	Officer's Recommendation
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Sub. No	Further Sub. No.	Submitter Name	Further Submitter Position	Officer's Recommendation
27.12	517.19	Horizons Regional Council Horticulture NZ	In-Part	Accept Accept In-Part
93.06		The Oil Companies		Accept

4.8.4 Recommended Amendments to the Plan Provisions

Amend Policy 9.1.6 to read:

"Establish controls to ensure that facilities which involve the use, storage, or transport ~~or disposal~~ of hazardous substances..."

4.9 Policy 9.1.7

4.9.1 Submissions Received

Sub No.	Submitter Name	Support/ In-Part/ Oppose	Summary of Submission	Decision Requested	Further Submission
93.07	The Oil Companies	Support	Support the general approach set out in Policy 9.1.7.	Retain intent of Policy 9.1.7	

One submission was received in support of Policy 9.1.7.

4.9.2 Discussion & Evaluation

1. The support of Policy 9.1.7 by the Oil Companies (93.07) is noted. As there are no other submission points in opposition of Policy 9.1.7, I recommend that submission point 93.07 be accepted.

4.9.3 Reporting Officer's Recommendation

Sub. No	Further Sub. No.	Submitter Name	Further Submitter Position	Officer's Recommendation
93.07		The Oil Companies		Accept

4.9.4 Recommended Amendments to the Plan Provisions

No amendments are recommended to Policy 9.1.7.

4.10 Policy 9.1.8

4.10.1 Submissions Received

Sub No.	Submitter Name	Support/ In-Part/ Oppose	Summary of Submission	Decision Requested	Further Submission
93.08	The Oil Companies	In-Part	Support the intent of Policy 9.1.8 and seeks to avoid accidental spills through the implementation of best practice measure in accordance with industry standards. However, due the nature of such spills being accidental, complete avoidance is not possible. The wording of Policy 9.1.8 should be amended to recognise this.	Amend Policy 9.1.8 as follows: Appropriate facilities and systems are to be provided to <u>seek to</u> avoid accidental events involving hazardous substances (such as spills and gas escapes) that have the potential to create unacceptable risks to the environment and human health.	

One submission was received on Policy 9.1.8 seeking minor amendment to the policy.

Policy 9.1.8 reads as follows:

"Appropriate facilities and systems are to be provided to avoid accidental events involving hazardous substances (such as spills and gas escapes) that have the potential to create unacceptable risks to the environment and human health."

4.10.2 Discussion & Evaluation

1. The Oil Companies (93.08) support Policy 9.1.8 in part. The Oil Companies seek amendment to ensure that the policy recognises the unforeseeable nature of accidental events involving hazardous substances. I agree with the submitter in that complete avoidance of an accidental event involving hazardous substances is not possible as these events are not planned for. However, appropriate facilities and systems are necessary to avoid unacceptable risks to the environment and human health in the case of an accident which involves the unintended release of hazardous substances.
2. I support the submission made by the Oil Companies in seeking amendment to Policy 9.1.8 to provide realistic and applicable policy direction for the management of accidental releases of hazardous substances into the environment. However, I recommend that the change requested is amended to improve readability of the policy. On this basis, I recommend that submission point 93.08 be accepted in part.

4.10.3 Reporting Officer's Recommendation

Sub. No	Further Sub. No.	Submitter Name	Further Submitter Position	Officer's Recommendation
93.08		The Oil Companies		Accept In-Part

4.10.4 Recommended Amendments to the Plan Provisions

Amend Policy 9.1.8 as follows:

"Appropriate facilities and systems are to be provided to that seek to avoid accidental events involving hazardous substances (such as spills and gas escapes) that have the potential to create unacceptable risks to the environment and human health."

4.11 Policy 9.1.9

4.11.1 Submissions Received

Sub No.	Submitter Name	Support/ In-Part/ Oppose	Summary of Submission	Decision Requested	Further Submission
93.09	The Oil Companies	In-Part	The transport of hazardous substances is currently managed under the Transport Act, the Explosives Act and New Zealand standards, the Oil Companies do not consider it appropriate to control the transport of hazardous substances further through the District Plan. The explanation to Issue 9.1 clarifies that the Council does not intend to specifically control the transportation of hazardous substances through the consent process and provided this clarification is retained, the Oil Companies do not Oppose Policy 9.1.9	Retain intent of Policy 9.1.9 provided that the last two sentences of the Explanation and Principle Reasons are also retained as follows: ...Council does not consider that any consent is necessary specifically for transportation of hazardous substances at the District level. At present there are controls under the Transport Act, the Explosives Act, and New Zealand Standards.	

One submission was received on Policy 9.1.9 in support of the policy provided there were no changes to the Explanation and Principle Reasons for Objective 9.1.1 Hazardous Substances.

4.11.2 Discussion & Evaluation

1. The Oil Companies (93.09) support Policy 9.1.9 provided that the Explanation and Principle Reasons is retained. The Oil Companies seek assurance that controls for the transportation of hazardous substances as set out in the Transport Act, the Explosives Act and New Zealand Standards are recognised and that the District Plan does not contain provisions which duplicate these controls.
2. I note the Oil Companies support for Policy 9.1.9 and I recommend that submission point 93.09 be accepted.

4.11.3 Reporting Officer's Recommendation

Sub. No	Further Sub. No.	Submitter Name	Further Submitter Position	Officer's Recommendation
93.09		The Oil Companies		Accept

4.11.4 Recommended Amendments to the Plan Provisions

No amendments are recommended to Policy 9.1.9.

4.12 Methods for Issue 9.1 & Objective 9.1.1

4.12.1 Submissions Received

Sub No.	Submitter Name	Support/ In-Part/ Oppose	Summary of Submission	Decision Requested	Further Submission
93.10	The Oil Companies	Support	Support Methods for Issue 9.1 and Objective 9.1.1, particularly to the extent that they promote the use of good practice guidelines, industry standards and codes of practice.	Retain intent of Methods for Issue 9.1 and Objective 9.1.1 without modification.	

One submission was received in support of the Methods for Issue 9.1 and Objective 9.1.1.

4.12.2 Discussion & Evaluation

1. The Oil Companies (93.10) support the Methods for Issue 9.1 and seek that these methods be retained without modification.
2. I note the Oil Companies support for the Methods for Issue 9.1 and recommend that submission point 93.10 be accepted.

4.12.3 Reporting Officer's Recommendation

Sub. No	Further Sub. No.	Submitter Name	Further Submitter Position	Officer's Recommendation
93.10		The Oil Companies		Accept

4.12.4 Recommended Amendments to the Plan Provisions

No amendments and recommended to the Methods for Issue 9.1 & Objective 9.1.1.

4.13 Chapter 9: Hazardous Substances - General Matters

4.13.1 Submissions Received

Sub No.	Submitter Name	Support/ In-Part/ Oppose	Summary of Submission	Decision Requested	Further Submission
11.28	Philip Taueki	In-Part	There should be a complete ban on the storage, use and disposal of hazardous substances within a chain strip of any waterway, including Lake Horowhenua.	No specific relief requested. Inferred: Amend Chapter 9 to restrict the storage, use and disposal of hazardous substances within a chain strip of any waterway, including Lake Horowhenua.	504.00 The Oil Companies - Oppose 519.23 Charles Rudd(Snr) - Support
60.27	Muaupoko Co-operative Society	In-Part	The submitter relies on the submission made by Philip Taueki for the following matters. There should be a complete ban on the storage, use and disposal of hazardous substances within a chain strip of any waterway, including Lake Horowhenua.	No specific relief requested. Inferred: Amend Chapter 9 to restrict the storage, use and disposal of hazardous substances within a chain strip of any waterway, including Lake Horowhenua.	

Two submissions were received on general matters in relation to Chapter 9 Hazardous Substances and Contaminated Land.

4.13.2 Discussion & Evaluation

- Philip Taueki (11.28) made a submission seeking the protection of a chain strip around all water bodies including Lake Horowhenua from the storage, use and disposal of hazardous substances. This submission point was supported by Charles Rudd (519.23) and opposed by the Oil Companies (504.00). The Oil Companies submit that some activities involving the storage and use of hazardous substances may have a functional need to be located in close proximity to a waterway (e.g. the use of boats and the storage of fuel). On this basis, the Oil Companies consider that it would therefore be impractical to impose a complete ban on the storage and use of hazardous substances within a chain strip of any waterway as the submitter seeks.
- The Muaupoko Co-operative Society supported all submission points made by Philip Taueki and in doing so made a duplicate submission seeking the protection of a chain strip around water bodies.
- Chapter 9 provides a suite of objectives, policies and methods which seek to ensure that adequate measures are taken to avoid or mitigate the adverse environmental effects of activities involving hazardous substances. Policy 9.1.5 relates specifically to the protection of sensitive environments such as water bodies, in managing hazardous substances. Policy

9.1.5 states "Limit the use and storage, and avoid disposal, of hazardous substances near any of the following areas:

- water bodies or wetlands...".

4. This policy direction is reflected in Chapter 23 Hazardous Substances which provides rules for managing hazardous substances. Chapter 23 provides permitted quantity limits of different classes of hazardous substances which are deemed to be of low risk. In addition, all hazardous facilities are required to comply with the conditions for permitted activities in Rule 23.3 including site design and layout of hazardous facilities, storage of hazardous substances, site drainage systems and waste management. These quantity limits and associated conditions seek to control the use and storage of hazardous substances and implement the policy direction provided in Chapter 9.
5. In the case that a hazardous facility does not comply with all permitted activity conditions in Rule 23.3 or that the activity involves the storage or use of quantities of hazardous substances that exceed the permitted quantity limits but do not exceed the discretionary quantity limits specified in Table 23-1, resource consent is required as a restricted discretionary activity. Matters of discretion are provided in Rule 23.8 of the Proposed Plan and include "(ii) Effects and risks to the surrounding environment, including consideration of the pattern of subdivision, land use (particularly sensitive activities), roading or infrastructure services in the locality". Assessment Criteria 25.7.10 would also form the basis for the assessment of the application and clause (a)(i) specifically provides "The extent to which the proposed activity and the proposed site poses a risk, and in particular: The sensitivity of the surrounding natural and physical environment. Depending on the scale of the proposal this may include separation distances to people-sensitive activities or to sensitive natural resources (e.g. aquifers, streams, wetland, habitats)."
6. In the case that an activity involving the storage or use of quantities of hazardous facilities that exceed the discretionary limits provided in Table 23-1, Council would assess the activity application considering the above matters, as well as any other relevant matters.
7. I consider that the Rules provided in Chapter 23 and the Assessment Criteria 25.7.10 would allow Council to assess the surrounding environment and have consideration for the location of a hazardous facility in relation to sensitive environments such as water bodies, including Lake Horowhenua.
8. I acknowledge that water bodies are sensitive environments and protective measures are required to prevent any adverse effects of the use and storage of hazardous substances. However, I consider that the use and storage within proximity to sensitive environments such as water bodies is adequately managed through the provisions in Chapter 9, Chapter 23 and Chapter 25 Assessment Criteria, and do not consider a specific requirement for Lake Horowhenua is required. On this basis, I recommend that submission points 11.28, 60.27 and 519.23 be rejected and submission point 504.00 be accepted.

4.13.3 Reporting Officer's Recommendation

Sub. No	Further Sub. No.	Submitter Name	Further Submitter Position	Officer's Recommendation

Sub. No	Further Sub. No.	Submitter Name	Further Submitter Position	Officer's Recommendation
11.28		Philip Taueki		Reject
	504.00	The Oil Companies	Oppose	Accept
	519.23	Charles Rudd	Support	Reject
60.27		Muaupoko Co-operative Society		Reject

4.13.4 Recommended Amendments to the Plan Provisions

No amendments are recommended.

4.14 Chapter 23: Hazardous Substances - Exemptions (23.1)

4.14.1 Submissions Received

Sub No.	Submitter Name	Support/ In-Part/ Oppose	Summary of Submission	Decision Requested	Further Submission
96.39	Federated Farmers of New Zealand	In-Part	<p>Support the permitted activity status of hazardous substances that do not exceed the medium threshold hazard factor which, as we understand it covers, farm fertilisers (which may be corrosive, toxic/ecotoxic and oxidative), fuel (flammable) and agrochemicals (toxic/ecotoxic).</p> <p>Supports the explicit exemptions for some hazardous substances as outlined on page 23-1 of the proposed district plan. Within these listed exemptions there are sound provisions made for the exemption of storage and use of agrichemicals (m) as long as the use and storage is in accordance with the New Zealand standard 8409:2004 Management of Agrichemicals.</p> <p>Although an exemption is also included for the storage of superphosphates and lime or similar fertilisers in the rural zone Federated Farmers believes that improvements could be made which align the fertiliser provision more closely to the agrichemical exemption.</p>	<p>Amend Rule 23.1 as follows:</p> <p>(a) Fuel contained in tanks of motor vehicles, agricultural and forestry equipment, boats, aircraft, locomotives and small engines <u>and the storage of fuel for primary production where it complies with the Guidelines for Safe Above-Ground Fuel Storage on Farms (Department of Labour, Oct 2001) for fuel.</u></p> <p>(e) Storage of superphosphate or lime <u>or any similar other fertiliser</u> in the Rural Zone <u>where that storage is done so in accordance with the Fertiliser Group Standards (corrosive (HSR002569), oxidising (HSR002570, subsidiary hazard HSR002571) and Toxic (HSR002572) 2006.</u></p> <p>And</p>	<p>506.23 Ernslaw One Ltd - Support</p> <p>513.19 Rayonier New Zealand Ltd - Support</p> <p>517.37 Horticulture NZ - In Part</p>

Sub No.	Submitter Name	Support/ In-Part/ Oppose	Summary of Submission	Decision Requested	Further Submission
			<p>Given the reasons for exemptions as outlined at the top of page 23-2 of the draft district plan which include small quantities of material stored, impracticality of exercising control or because industry codes of practice provide adequate levels of security the citing of the relevant legislation for fertilisers would strengthen the exemption for fertilisers and align this exemption with that included for agrichemicals.</p> <p>Federated Farmers believe that an advice note should accompany this exemption to ensure that readers of the plan know to refer to the regional plan for rules governing fertiliser use. We do note that reference to use being managed by the regional plan is under Section 9.1 Issue Discussion on page 9-2 of the proposed district plan.</p> <p>Federated Farmers also believe that it is appropriate to list an exemption for the storage of fuel for use in primary production where the storage of the fuel complies with Guidelines for Safe Above Ground Fuel Storage on Farms.</p> <p>Federated Farmers have a firm belief that where current and relevant legislation exists that such legislation forms the basis of district plan provision and guidelines.</p> <p>The inclusion of reference to relevant industry standards also complements the methods for Issue 9.1 and Objective 9.1.1.</p>	That an advice note be provided for Rule 23.1.1 to ensure that readers of the plan know to refer to the regional plan for rules governing fertiliser use.	
98.48	Horticulture NZ	Support	Rule 23.1 provides exemptions for a range of hazardous substances including storage of fertiliser in the Rural Zone and the use and storage of agrichemicals in accordance with NZS 8409:2004. Horticulture NZ supports this approach.	Retain Rule 23.1 Exemptions as notified.	
41.46	Powerco	Support	Submitter supports Rule 23.1.1(h) as it exempts gas and oil pipelines from this requirement.	Retain without modification Rule 23.1.1(h)	

Three submissions were received on 23.1 Exemptions - Hazardous Substances. Federated Farmers sought amendment to the exemptions for consistency and clarity. Horticulture NZ and Powerco both submitted in support of the exemptions as notified.

4.14.2 Discussion & Evaluation

1. Federated Farmers (96.39) support Rule 23.1 Exemptions in part. Federated Farmers support the exemption of the storage of fuel, fertilisers and agrichemicals however seek amendments to reference and therefore provide consistency with, relevant standards and legislation. Ernslaw One Ltd (506.23) and Rayonier New Zealand Ltd (513.19) support this submission and Horticulture NZ (517.37) support this submission in part.
2. Federated Farmers seek that the storage of fuel for use in primary production is provided for as an exempt activity of the provisions of Chapter 23 if storage complies with "Guidelines for Safe Above Ground Fuel Storage on Farms".
3. Federated Farmers also seeks amendments to the exemption of lime and superphosphate fertilisers and other similar fertilisers to broaden this reference to include all fertilisers and refer to relevant Group Standards for Fertilisers. The submitter requests that an advice note should accompany this revised exemption to ensure plan users are aware of and are directed to the Proposed One Plan requirements for fertiliser use.
4. Council engaged Hazardous Substances expert Kerry Laing (Kerrich Environmental Consultants) to provide comment on the submission made by Federated Farmers in relation to both storage of fuel for use in primary production and the exemption of all fertilisers.
5. In addressing this aspect of the Federated Farmers submission (96.39) which relates to the storage of fuel, Mr Laing states that the current permitted quantity thresholds in the Rural Zone (Table 23-2) allows for relatively large quantities of both diesel and petrol in underground storage and limits the permitted activity above ground storage of petrol to 3 tonnes (equivalent to approximately 4,000 litres). Notwithstanding this, Mr Laing commented that if there are circumstances where this 3 tonne limit may be too low, the amendment requested with reference to the "Guidelines for Safe Above Ground Fuel Storage on Farms" would be reasonable. Mr Laing noted the document referred in the submission (Guidelines for Safe Above Ground Fuel Storage on Farms) has been superseded by an EPA/Department of Labour Guideline "Above Ground Storage of Fuels on Farms (January 2012)".
6. Given this advice, I consider that the permitted quantities of fuel (petrol 3.1A and diesel 3.1D) specified in Table 23-1 would allow for the storage of large quantities of fuel above ground and it is therefore not necessary to list this activity as an exemption. The submitter may wish to comment on the appropriateness of the permitted quantities for petrol and diesel at the hearing. In the case that a particular primary production activity would require quantities greater than 3 tonnes of petrol and 100 tonnes of diesel I could be convinced to reconsider my recommendation however, at this time, I recommend this aspect of submission point 96.39 be rejected.
7. Mr Laing also made comment on the aspect of submission point 96.39 that seeks amendment to the exemption of fertilisers. Mr Laing acknowledges that there is some uncertainty to the current exemption in that it applies to lime, superphosphate or similar fertilisers. This reference to "similar fertilisers" is too uncertain and could lead to

interpretation difficulties. The submitter has suggested this could be amended to refer to any other fertiliser where that storage is done in accordance with the Group Standards for Fertilisers.

8. Mr Laing commented that there is a difference between the two types of documents that Federated Farmers refer to in seeking alignment in those activities listed as exemptions. The New Zealand Standard NZS 8409:2004 (Management of Agrichemicals) differs to the Group Standards (requested by the submitter) as it is an update of a previous standard that was in existence before the enactment of the Hazardous Substances Regulations. Mr Laing commented NZS 8409:2004 (refer 23.1.1(m)) has been developed with considerable emphasis on management in use. The Group Standards on the other hand, are primarily directed at the manufacturing/storage end with emphasis on labelling, emergency management, fire protection and approved handler etc requirements and not so much on specific 'management'.
9. Mr Laing states that the exemption could be amended by including reference to the Group Standards to make the approach similar to that for agrichemicals. However, he does clarify that the Group Standards provide different thresholds in the form of "trigger limits" which when met, trigger requirements such as emergency response plans and in some cases these trigger limits are lower than the permitted activity thresholds provided in the Proposed Plan. Mr Laing indicated that while the Group Standards should be met in any case, they could be perceived to be more stringent than the provisions provided in the Proposed Plan while being more focused on the manufacturing/storage end than the storage and use of fertilisers.
10. As noted above, the reference to "similar fertilisers" is uncertain and requires clarification. Mr Laing has suggested that it would be appropriate to amend the exemption of "lime and superphosphate and other similar fertilisers" to exempt all fertilisers stored on farms for primary production purposes if the storage of such substances complies with the Group Standards for Fertilisers. This would provide consistency in the management of all fertilisers stored on farms while ensuring that the storage of fertiliser in bulk fertiliser depots would still be required to comply with the hazardous substances provisions in Chapter 23 of the Proposed Plan.
11. In relation to adding an advice note to direct plan users to the requirements in the Proposed One Plan on fertiliser use, this request is supported as it is likely to be a common use of hazardous substances in the District, and is an activity the District Plan does not manage. Therefore, it is recommended this aspect of submission point (96.39) be accepted.
12. Given the three aspects of submission point (96.39) and the different recommendations for these aspects above, it is recommended this submission point and further submission points 506.23, 513.19 and 517.37 are accepted in part.
13. Horticulture NZ (98.48) made a submission in support of Rule 23.1 - Exemptions as notified. This support is noted.
14. Powerco (41.46) support Rule 23.1(h) in that oil and gas pipelines are exempt from the hazardous substances provisions provided in Chapter 23. This support is noted and I recommend that submission point 41.46 is accepted.

4.14.3 Reporting Officer's Recommendation

Sub. No	Further Sub. No.	Submitter Name	Further Submitter Position	Officer's Recommendation
96.39		Federated Farmers		Accept In-Part
	506.23	Ernslaw One Ltd	Support	Accept In-Part
	513.19	Rayonier New Zealand Ltd	Support	Accept In-Part
	517.37	Horticulture NZ	In-Part	Accept In-Part
98.48		Horticulture NZ		Accept
41.46		Powerco		Accept

4.14.4 Recommended Amendments to the Plan Provisions

Amend Rule 23.1 as follows:

"(e) Storage of ~~superphosphate or lime or similar~~ fertilisers on farms for the purpose of primary production in the Rural Zone where that storage is in accordance with the Fertiliser Group Standards (corrosive (HSR002569), oxidising (HSR002570, subsidiary hazard HSR002571) and Toxic (HSR002572) 2006.

...

Note: The exemptions specified in Rule 23.1 are still subject to the requirements in the Horizons Regional Council Proposed One Plan."

4.15 Chapter 23: Hazardous Substances - Permitted Activities (23.2)

4.15.1 Submissions Received

Sub No.	Submitter Name	Support/ In-Part/ Oppose	Summary of Submission	Decision Requested	Further Submission
98.49	Horticulture NZ	In-Part	Storage of fuel on rural properties is not provided as an exemption from the hazardous substances rules so it is taken that Rule 23.2.1 b) would apply.	Include a new sub-clause to Rule 23.2 as follows: <u>(c) Storage of fuel in the Rural Zone for primary production activities that meets HSNO requirements is a permitted activity.</u>	
98.50	Horticulture NZ	In-Part	The quantities specified in Table 23.2 are in weight. Substances such as fuels should be expressed in volume – litres. Storage of fuel that meets the requirements of	Amend Table 23 and review quantities in Table 23.2 to determine alignment with HSNO and express quantities in	

Sub No.	Submitter Name	Support/ In-Part/ Oppose	Summary of Submission	Decision Requested	Further Submission
			HSNO should be provided for as a permitted activity. It is noted that the quantities in Table 23.2 appear to be sourced from the Land Use Planning Guide for Hazardous Facilities (MfE). This publication is pre-HSNO and should be used with caution. Quantities in Table 23.2 should therefore be reassessed to determine their alignment with HSNO provisions.	Table 23.2 to include volumes by litre.	

Two submissions were received on 23.2 Permitted Activities by Horticulture NZ.

4.15.2 Discussion & Evaluation

1. Horticulture NZ (98.49) seeks that the storage of fuel above ground for primary production activities in the Rural Zone is provided for as a permitted activity.
2. As discussed earlier in this report, the storage of fuel (both under ground and above ground) is provided for as a permitted activity in the Rural Zone provided that the quantity limit does not exceed the thresholds specified in Table 23-1 of Chapter 23.
3. Hazardous substances expert Kerry Laing, was engaged to comment on the submission made by Horticulture NZ. Mr Laing recognised that submission point 98.49 was essentially seeking the same change as sought by Federated Farmers in submission point 96.39 and deemed the relief sought by Federated Farmers as more appropriate.
4. Mr Laing states that the current permitted quantity thresholds in the Rural Zone (Table 23-2) allows for relatively large quantities of both diesel and petrol in underground storage and limits the permitted activity above ground storage of petrol to 3 tonnes (equivalent to approximately 4,000 litres).
5. Given this advice, I consider that the permitted quantities of fuel (petrol 3.1A and diesel 3.1D) specified in Table 23-1 would allow for the storage of fuel for primary production purposes above ground and it is not necessary to list the activity as a permitted activity. The submitter may wish to comment on the appropriateness of the permitted quantities for petrol and diesel at the hearing. In the case that a particular primary production activity would require quantities greater than 3 tonnes of petrol and 100 tonnes of diesel I could be convinced to reconsider my recommendation however, at this time, I recommend submission point 98.49 be rejected.
6. Horticulture NZ (98.50) seeks amendment to Table 23-1 which is referenced in Rule 23.2.1(a) and (b) along with 23.4.1(b) and 23.5.1(a). Table 23-1 provides permitted and discretionary activity quantity limits of different classes of hazardous substances. All quantities are provided either in weight (tonnes or kilograms) or in the case of gases, volume (cubic metres). Horticulture NZ seek that substances such as fuels be expressed in volume-litre units rather than in weight. Horticulture NZ also submit that the values provided in Table

23-1 should be reassessed as the Land Use Planning Guide which formed the basis of the assessment which defined these values, pre-dates HSNO legislation.

7. Mr Laing provided comment on this submission point and relief sought by Horticulture NZ.
8. Mr Laing states that there is a difficulty with liquids in that they are commonly encountered in containers that are of a designated volume. Table 23-1 addresses all HSNO classes including liquids, in weight for consistency and accuracy. Liquids can have different densities and therefore the weight quantities provided in the table correspond to a variety of different volumes for different substances. Mr Laing suggests that one solution would be to list specific substances as opposed to HSNO classes, and specify the volume that results from converting the weight quantity using the specific gravity of the substances. Liquid quantities could be expressed in volume however this would involve a considerable amount of work in order to apply this to all classes. Even if this amendment was limited to only flammable liquids classes, there are many substances with different specific gravities to consider as well as petrol and diesel as suggested by the submitter.
9. With respect to the aspect of submission point (98.50) that questioned the relevance of the assessment used to define the values in Table 23-1. Mr Laing acknowledges that the Land Use Planning Guide for Hazardous Facilities does pre-date HSNO legislation however, this Guide was updated in 2002 to specifically account for the Hazardous Substances Regulations enacted in 2001.
10. Mr Laing specifically reviewed all the information/quantities for the Proposed Plan to provide for the Quantity Limit Threshold approach to managing hazardous substances in the Horowhenua District. Mr Laing states that the base quantities in the Land Use Planning Guide are the most comprehensive and widely used in the country and until a review of these base quantities is undertaken, the existing set is the most appropriate to use to ensure some degree of consistency throughout the country.
11. Based on the advice from Mr Laing I do not support the approach of amending values to specify the quantities of some substances in volume as opposed to weight, as it could overcomplicate the table which is intended to provide a simple and interpretable reference to HSNO classes and their permitted quantities in each zone. As Mr Laing has identified, there is not a simple way of determining the specific gravity of individual substances in order to covert weight values into volume quantities. This would also require the listing of individual substances that are grouped under each HSNO class which could overcomplicate the table which is designed to easily correlate with HSNO classes and therefore the regulations set out in HSNO legislation. On this basis, I recommend that submission point 98.50 is rejected.

4.15.3 Reporting Officer's Recommendation

Sub. No	Further Sub. No.	Submitter Name	Further Submitter Position	Officer's Recommendation
98.49		Horticulture NZ		Reject
98.50		Horticulture NZ		Reject

4.15.4 Recommended Amendments to the Plan Provisions

No amendments are recommended to Rule 23.2 Permitted Activities.

4.16 Chapter 23: Hazardous Substances - Controlled Activities (23.3)

4.16.1 Submissions Received

Sub No.	Submitter Name	Support/ In-Part/ Oppose	Summary of Submission	Decision Requested	Further Submission
93.25	The Oil Companies	Oppose	<p>Oppose that Rule 23.3.1 (a) does not apply in the Rural and Industrial Zones. Underground storage of 100,000 litres of petrol would require a Discretionary activity consent in the Rural Zone and a Restricted Discretionary activity consent in the Industrial Zone.</p> <p>There is no effects based reason to apply a more restrictive activity status to the underground storage of petrol in the Rural and Industrial Zones, especially when the same Codes of Practice would apply.</p>	<p>Amend Rule 23.3.1(a) as follows:</p> <p>23.3.1 The following activities shall be Controlled Activities:</p> <p>(a) The retail sale of fuel, up to a storage of 100,000 litres of petrol and up to 50,000 litres of diesel in all zones excluding the Rural Zone and the Industrial Zone, in underground storage tanks, provided it can be demonstrated that the following Codes of Practice are adhered to:</p> <p>Below Ground Stationary Container Systems for Petroleum - Design and Installation HSNOCOP 44, EPA, 2012.</p> <p>Below Ground Stationary Container Systems for Petroleum – Operation HSNOCOP 45, EPA, 2012.</p> <p>...</p>	
93.26	The Oil Companies	In-Part	<p>Support the intent of Rule 23.3.1(b). However, as there is a move towards the use of 'swap a bottle' facilities at service stations, there is a requirement to store multiple individual (9kg) bottles within a locked 'cage' structure. The storage of 150 individual</p>	<p>Amend Rule 23.3.1(b) as follows:</p> <p>23.3.1 The following activities shall be Controlled Activities:</p> <p>...</p> <p>(b) The retail sale of LPG,</p>	

Sub No.	Submitter Name	Support/ In-Part/ Oppose	Summary of Submission	Decision Requested	Further Submission
			bottles, for example, would equate to some 1350kg of LPG storage. While this is well within the six tonne threshold, such a facility would not currently comply with the rule as it comprises multi vessel rather than single vessel storage.	with a storage of up to six tonnes (single or multi vessel storage) of LPG, provided it can be demonstrated that the following standard is adhered to: Australian and New Zealand Standard 1596:2008 Storage and Handling of LP Gas.	

Two submissions were made on Rule 23.2 Controlled Activities by the Oil Companies.

4.16.2 Discussion & Evaluation

1. The Oil Companies (93.25) oppose Rule 23.3.1(a) in that the rule provides for the retail sale, up to a storage of 100,000 litres of petrol and up to 500,000 litres of diesel in all zones excluding the Rural Zone and the Industrial Zone as a controlled activity. The submitter seeks amendment to this rule to remove the exclusion of Rural and Industrial Zones so the same rule is applied across all zones.
2. The Oil Companies submit that the retail sale of petrol or diesel that requires such quantities of fuel to be stored underground should be the same activity status across all zones as the same Codes of Practice must be complied with regardless of whether the activity is a controlled, or in the case of the Rural and Industrial Zones a discretionary activity.
3. As the submitter identifies, both the Rural and Industrial Zones are likely to be less sensitive in terms of the anticipated activities which are typical of such zones and are more suited to accommodating for storage of such quantities. On this basis, I am satisfied that a controlled activity status for the retail sale, up to a storage of 100,000 litres of petrol and up to 500,000 litres of diesel in all zones is appropriate. I recommend that submission point 93.25 is accepted.
4. The Oil Companies (93.26) support the intent of Rule 23.3.1(b) but seek amendment to provide for the move towards 'swap a bottle' facilities at services stations.
5. Council received comment from Mr Laing on this submission point. Mr Laing accepted that there has been a shift towards swap a bottle operations at service stations however, he does not support the relief requested in submission point 93.26.
6. The current requirement for the retail sale of LPG with storage of up to six tonnes (single vessel storage) of LPG is intended to avoid the situation of having six tonnes of LPG stored across multiple vessels. Mr Laing considers that the primary concern with the multiple bottle storage is that if there is an incident that results in a fire, each cylinder provides an additional fuel source and is a potential missile. Therefore, the greater the number of cylinders, the greater the potential risk.

7. The six tonne limit if stored in multi vessel storage could allow for the storage of over 600 9kg cylinders, which is unrealistic for a swap a bottle operation at a service station. Mr Laing considers that the example of 150 cylinders is also unrealistic and is far in excess of any swap a bottle facility he is familiar with.
8. It is considered that the rule could be amended to cover storage of individual bottles within a locked cage. However, Mr Laing recommends that the number of individual bottles is capped to a total of 30 to minimise the risks. Based on this advice, I recommend additional wording be added to Rule 23.3.1(b) to limit the maximum number of LPG bottles to 30. The submitter may wish to comment on the practicality and appropriateness of this threshold at the hearing. Therefore, at this time, I recommend submission point 93.26 be accepted in part.

4.16.3 Reporting Officer's Recommendation

Sub. No	Further Sub. No.	Submitter Name	Further Submitter Position	Officer's Recommendation
93.25		The Oil Companies		Accept
93.26		The Oil Companies		Accept In-Part

4.16.4 Recommended Amendments to the Plan Provisions

Amend Rule 23.3.1 as follows:

- (a) The retail sale of fuel, up to a storage of 100,000 litres of petrol and up to 50,000 litres of diesel in all zones ~~excluding the Rural Zone and the Industrial Zone~~, in underground storage tanks, provided it can be demonstrated that the following Codes of Practice are adhered to:
 - Below Ground Stationary Container Systems for Petroleum - Design and Installation HSNOCOP 44, EPA, 2012.
 - Below Ground Stationary Container Systems for Petroleum – Operation HSNOCOP 45, EPA, 2012.
- (b) The retail sale of LPG, with a storage of up to six tonnes (single or multi vessel storage) of LPG, provided that the maximum number of individual vessels stored does not exceed 30 and provided it can be demonstrated that the following standard is adhered to:
 - Australian and New Zealand Standard 1596:2008 Storage and Handling of LP Gas."

4.17 Chapter 23: Hazardous Substances - Conditions for Permitted Activities (23.6)

4.17.1 Submissions Received

Sub No.	Submitter Name	Support/ In-Part/ Oppose	Summary of Submission	Decision Requested	Further Submission
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Sub No.	Submitter Name	Support/ In-Part/ Oppose	Summary of Submission	Decision Requested	Further Submission
93.29	The Oil Companies	Support	Support the permitted activity conditions set out in Rule 23.6.	Retain Rule 23.6.	

One submission was received in support of Rule 23.6 Conditions for Permitted Activities.

4.17.2 Discussion & Evaluation

1. The support for Rule 23.6 by the Oil Companies (93.29) is noted. I recommend that submission point 93.29 is accepted.

4.17.3 Reporting Officer's Recommendation

Sub. No	Further Sub. No.	Submitter Name	Further Submitter Position	Officer's Recommendation
93.29		The Oil Companies		Accept

4.17.4 Recommended Amendments to the Plan Provisions

No amendments are recommended to Rule 23.6 Conditions for Permitted Activities.

4.18 Chapter 23: Hazardous Substances - General Matters

4.18.1 Submissions Received

Sub No.	Submitter Name	Support/ In-Part/ Oppose	Summary of Submission	Decision Requested	Further Submission
95.46	New Zealand Defence Force (NZDF)	Support	NZDF acknowledges Section 23 Rules have updated to reflect the requirements of the HSNO legislation.	Retain as notified.	

One submission was received in support of provisions contained in Chapter 23: Hazardous Substances in that they align with the requirements of HSNO legislation.

4.18.2 Discussion & Evaluation

1. The support for Chapter 23 by NZDF (95.46) is noted. I recommend that this submission point be accepted.

4.18.3 Reporting Officer's Recommendation

Sub. No	Further Sub. No.	Submitter Name	Further Submitter Position	Officer's Recommendation

Sub. No	Further Sub. No.	Submitter Name	Further Submitter Position	Officer's Recommendation
95.46		New Zealand Defence Force (NZDF)		Accept

4.18.4 Recommended Amendments to the Plan Provisions

No amendments are recommended.

4.19 Chapter 26: Definitions - Hazardous Facilities

4.19.1 Submissions Received

Sub No.	Submitter Name	Support/ In-Part/ Oppose	Summary of Submission	Decision Requested	Further Submission
96.42	Federated Farmers of New Zealand	In-Part	Federated Farmers submits that the definition of Hazardous Facility expressly excludes farm storage of substances. Rule 23.1 exempts fertilisers and agrichemical use and storage in the rural zone from provisions in Chapter 23, for consistency the definition of Hazardous Facility should also exclude on-farm storage.	Amend Hazardous Facility definition by inserting a new sub-clause to the exclusion list as follows: ... <u>On-farm use and storage of fertilisers, fuel and agrichemicals.</u>	506.26 Ernslaw One Ltd - Support
98.04	Horticulture NZ	In-Part	The Proposed Plan has a definition of hazardous facility which includes a number of exclusions. However Rule 23.1 lists a range of items and facilities that are exemptions from the hazardous substance rules. Therefore the definition of hazardous facility is misleading as it is not consistent with Rule 23.1. The focus in the rules should be on the substances and quantities stored so a definition of hazardous facility is not required.	Delete the definition of Hazardous Facility.	504.02 The Oil Companies - Oppose 506.49 Ernslaw One Ltd - Support

Two submissions were received on the definition for Hazardous Facility in Chapter 26 of the Proposed Plan.

4.19.2 Discussion & Evaluation

1. Federated Farmers (96.42) seek amendment to the definition of hazardous facility to accurately reflect all exemptions that are listed in Rule 23.1.

2. Horticulture NZ (98.04) seek that the definition for hazardous facility is deleted as it is not consistent with Rule 23.1 and could be misleading for plan users.
3. A definition for Hazardous Facility was included in the Proposed Plan to align with the national “Guide for Land Use Planning for Hazardous Facilities”. The Conditions for Permitted Activities (Rule 23.6) makes reference to hazardous facility in outlining requirements for sites that involve the use and storage of hazardous substances. It is my view that there remains a purpose for having a definition for hazardous facilities however, I believe the existing definition requires amendment to remove any inconsistencies or cause for confusion in applying the provisions in Chapter 9 and 23.
4. I recommend that the definition is amended to no longer reference those facilities which are specifically exempt from the provisions for hazardous facilities. The exemptions listed in Rule 23.1 would then be the only section of the Plan relied upon to clearly identify those facilities that would not be required to comply with the rules contained in Chapter 23. On this basis, I recommend that both submission points 96.42 and 98.04 are accepted in part.

4.19.3 Reporting Officer’s Recommendation

Sub. No	Further Sub. No.	Submitter Name	Further Submitter Position	Officer’s Recommendation
96.42		Federated Farmers		Accept In-Part
98.04		Horticulture NZ		Accept In-Part

4.19.4 Recommended Amendments to the Plan Provisions

Amend Chapter 26: Definitions as follows:

Hazardous Facility means any activity involving hazardous substances and the sites where hazardous substances are used, stored, handled or disposed of, and any installations or vehicles parked on site that contain hazardous substances. ~~Hazardous facility does not include any of the following:~~

- ~~• The incidental use and storage of hazardous substances in domestic quantities.~~
- ~~• Fuel in motor vehicles, boats and small engines.~~
- ~~• Retail outlets for domestic usage of hazardous substances (e.g. supermarkets, hardware shops, pharmacies, home garden centres).~~
- ~~• Gas and oil pipelines.~~
- ~~• Trade waste sewers.~~

4.20 Issue 9.2 Contaminated Land

4.20.1 Submissions Received

Sub No.	Submitter Name	Support/ In-Part/ Oppose	Summary of Submission	Decision Requested	Further Submission
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Sub No.	Submitter Name	Support/ In-Part/ Oppose	Summary of Submission	Decision Requested	Further Submission
93.11	The Oil Companies	In-Part	<p>Supports the general intent of Issue 9.2. However, the Proposed Plan contains no definition of "remediation", which increases the potential for uncertainty in administration. The Oil Companies would be concerned if remediation was to be narrowly defined in this context as only relating to the removal and reduction of the contaminant source. The Oil Companies wish to ensure that source removal, pathway control and institutional control are all considered equally by plans and that the terminology does not deliberately or inadvertently bias for, or against, any option.</p> <p>If read narrowly, the issue in its current form would require remediation i.e. removal or reduction of the containment source, to be applied to all contaminated land. In some cases it is not appropriate, practicable or possible to only deal with source control for all contaminated land. Remediation is, and should be seen and referred to, as a subset of the management of contaminated land.</p>	<p>Amend Issue 9.2 as follows:</p> <p>The use and development of potentially contaminated land can lead to adverse effects on the environment and human health, when the necessary remediation <u>or management measures</u> works have not been undertaken prior to use.</p>	

One submission was received on Issue 9.2 Contaminated Land. The Oil Companies support the general intent of Issue 9.2 however, they seek change to provide certainty in the administration of the Issue and associated provisions.

4.20.2 Discussion & Evaluation

1. The Oil Companies (93.11) support Issue 9.2 in-part. The submitter seeks amendment to Issue 9.2 to ensure that the issue of the use of potentially contaminated land where no works to control or manage contaminants have been undertaken considers all management measures that could be undertaken to contaminated sites. The Issue only refers to "remediation works" which the submitter has identified to be only one management measure that can be undertaken prior to the use of a contaminated site.
2. I agree with the Oil Companies in that it is appropriate to distinguish between "remediation works" and "management measures" as there are different management measures which can be an acceptable response, not just remediation. I recommend that submission point 93.11 is accepted and the decision sought is reflected in both Issue 9.2 and the Issue Discussion for Issue 9.2.

4.20.3 Reporting Officer's Recommendation

Sub. No	Further Sub. No.	Submitter Name	Further Submitter Position	Officer's Recommendation
93.11		The Oil Companies		Accept

4.20.4 Recommended Amendments to the Plan Provisions

Amend Issue 9.2 to read:

"The use and development of potentially contaminated land can lead to adverse effects on the environment and human health, when the necessary remediation or management measures works have not been undertaken prior to use."

Amend Issue Discussion for Issue 9.2 as follows:

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

In circumstances where more sensitive land uses are proposed on land that has not been fully remediated (but level of contamination was acceptable for the previous land use) or is potentially contaminated land, it is important to ensure that the land is remediated to a satisfactory degree to avoid or reduce risks to human health. Alternatively, contaminated land needs to be managed so that it does not pose an unacceptable risk to current or future owners, occupiers and/or users. The on-going management of contaminants on land needs to be adequate to protect the reasonably foreseeable needs of present and future owners, occupiers and users. Poorly implemented risk management plans and poorly managed information can result in uninformed land use decisions and expose people and the environment to unacceptable risks.

Horizons Regional Council has accepted principal responsibility for identifying and investigating contaminated sites within the region. 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. The National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health directs the requirement for consent or otherwise for activities on contaminated or potentially contaminated land in this regard."

4.21 Objective 9.2.1 Contaminated Land

4.21.1 Submissions Received

Sub No.	Submitter Name	Support/ In-Part/ Oppose	Summary of Submission	Decision Requested	Further Submission
93.13	The Oil Companies	In-Part	Support the general intent of Objective 9.2.1. While it is accepted that remediation can itself result in adverse effects that need to be managed, in this context remediation is one of the management responses available for avoiding or mitigating the adverse from the subdivision, use or redevelopment of contaminated land. The focus of Objective 9.2.1 should be changed to reflect this.	Amend Objective 9.2.1 as follows: To avoid, or mitigate the risk of adverse effects from the <u>subdivision</u> , use, <u>or</u> redevelopment or remediation of contaminated and potentially contaminated land on human health and the environment.	

One submission was received on Objective 9.2.1. The Oil Companies seek amendment to this objective to include the risk of adverse effects of subdivision and delete the consideration of remediation.

4.21.2 Discussion & Evaluation

1. The Oil Companies (93.13) seek amendments to Objective 9.2.1 to clarify the role of remediation as a management response as opposed to a potential cause of adverse effects. The Oil Companies also seek that the effects of subdivision of contaminated and potentially contained land are included as a risk that should be avoided or mitigated.
2. The Oil Companies (93.11) sought amendment to Issue 9.2 to distinguish between "remediation works" and "management measures" as they are different management approaches. As discussed earlier in this report in my response to a similar submission point, I recommend that Issue 9.2 and the Issue Discussion for Issue 9.2 are amended to differentiate between remediation and other management measures.
3. The amended Issue Discussion outlines that processes or works associated with remediation can cause adverse effects in their own right. An example of this could be the process of excavating contaminated material creating contaminated dust particles. I am satisfied that the risk of adverse effects of remediation should be avoided or mitigated and that the proposed amendment to the Issue Discussion for Issue 9.2 clarifies this.
4. The Oil Companies identified that the risk of adverse effects of subdivision is not specifically listed in Objective 9.2.1. I support the requested inclusion as subdivision is often the precursor to land use change and/or intensification and in the case of subdivision of contaminated or potentially contaminated land the risks of adverse effects should be avoided or mitigated.
5. I recommend that submission point 93.13 is accepted in part.

4.21.3 Reporting Officer's Recommendation

Sub. No	Further Sub. No.	Submitter Name	Further Submitter Position	Officer's Recommendation
93.13		The Oil Companies		Accept In-Part

4.21.4 Recommended Amendments to the Plan Provisions

Amend Objective 9.2.1 to read:

To avoid, or mitigate the risk of adverse effects from the subdivision, use, redevelopment or remediation of contaminated and potentially contaminated land on human health and the environment.

4.22 Policy 9.2.2

4.22.1 Submissions Received

Sub No.	Submitter Name	Support/ In-Part/ Oppose	Summary of Submission	Decision Requested	Further Submission
93.14	The Oil Companies	Support	Support Policy 9.2.2	Retain intent of Policy 9.2.2 without modification.	

One submission was received in support of Policy 9.2.2.

4.22.2 Discussion & Evaluation

1. The Oil Companies (93.14) made a submission in support of Policy 9.2.2. I note this support and recommend that submission point 93.14 is accepted.

4.22.3 Reporting Officer's Recommendation

Sub. No	Further Sub. No.	Submitter Name	Further Submitter Position	Officer's Recommendation
93.14		The Oil Companies		Accept

4.22.4 Recommended Amendments to the Plan Provisions

No amendments are recommended to Policy 9.2.2

4.23 Policy 9.2.3

4.23.1 Submissions Received

Sub No.	Submitter Name	Support/ In-Part/ Oppose	Summary of Submission	Decision Requested	Further Submission
93.15	The Oil Companies	In-Part	Policy 9.2.3 assumes that the intended use of land will involve increased human use and effectively sets a defacto remediation standard for increased human use. Policy 9.2.3 needs to recognise that different levels of contamination may be acceptable depending on the intended end use of the land. The end use needs to be the driver for determining any remediation standard or contaminant mitigation strategy. Policy 9.2.3 should be amended to refer to "the intended exposure to humans".	Amend Policy 9.2.3 as follows: Require development sites that have a history of land use that could have resulted in contamination of the soil to undertake a preliminary site investigation to confirm whether further investigation, remediation or management is required, to ensure that the land is suitable for increased <u>the intended</u> exposure to humans and the environment.	
98.32	Horticulture NZ	In-Part	Policy 9.2.3 requires 'development sites' to undertake investigations. As identified in relation to the definition of the term 'development' the proposed definition is very wide. When the term is used in a context such as Policy 9.2.3 it is important that the definition is clear and not open-ended.	Amend the definition of 'development' (refer to relief sought in Section 26, Definitions).	

Two submissions were received on Policy 9.2.3. The Oil Companies seek amendment to assist with interpretation of the policy and Horticulture NZ seeks amendment to the definition of development to align with the use of the term in Policy 9.2.3.

4.23.2 Discussion & Evaluation

1. The Oil Companies (93.15) seek amendment to Policy 9.2.3 to clarify that the use of contaminated or potentially contaminated land may not always result in increased exposure of contaminants to humans. The Oil Companies submit that different levels of contamination may be acceptable depending on the end use of the land which would then require different management measures to be undertaken.
2. I consider that Policy 9.2.3 does assume that human exposure to contaminants will always be increased regardless of the intended land use and I consider that the Oil Companies raise a valid point in that all land uses don't necessarily result in increased exposure of contaminants to humans. On this basis, I recommend that submission point 93.15 is

accepted to ensure that the Policy considers the intended land use and an appropriate management measure can be adopted to adequately manage the contaminants.

3. Horticulture NZ (98.32) seek amendment to the definition of 'development' in Chapter 26 to assist with the interpretation of Policy 9.2.3.
4. I acknowledge that the current definition for 'development' is wide ranging, and in the context of Policy 9.2.3, covers a wide range of circumstances. However, I consider that the wording and intent of Policy 9.2.3 is consistent with the National Environmental Standard for Assessing and Managing Contaminated Soil to Protect Human Health. This NES requires a preliminary site investigation for a "change in use, subdivision or development" and to provide for consistency with national standards, I also consider that this policy refers specifically to "development site" and the definition of development wouldn't necessarily be relied upon in this instance to interpret the meaning of this term. I recommend that the current wording of Policy 9.2.3 and the definition of "development" be retained.

4.23.3 Reporting Officer's Recommendation

Sub. No	Further Sub. No.	Submitter Name	Further Submitter Position	Officer's Recommendation
93.15		The Oil Companies		Accept
98.32		Horticulture NZ		Reject

4.23.4 Recommended Amendments to the Plan Provisions

Amend Policy 9.2.3 as follows:

Require development sites that have a history of land use that could have resulted in contamination of the soil to undertake a preliminary site investigation to confirm whether further investigation, remediation or management is required, to ensure that the land is suitable for ~~increased~~ the intended exposure to humans and the environment.

4.24 Policy 9.2.4

4.24.1 Submissions Received

Sub No.	Submitter Name	Support/ In-Part/ Oppose	Summary of Submission	Decision Requested	Further Submission
93.16	The Oil Companies	In-Part	Policy 9.2.4 should be amended to properly focus on the need for management of contaminated land (which may involve remediation) during subdivision, use or redevelopment in order to prevent or mitigate adverse effects. Policy 9.2.4 should be amended to refer to "unacceptable risk". All	Amend Policy 9.2.4 as follows: Ensure that all remediation, use, subdivision and redevelopment of <u>when</u> land affected by soil contamination <u>is used, subdivided, and/or</u>	

Sub No.	Submitter Name	Support/ In-Part/ Oppose	Summary of Submission	Decision Requested	Further Submission
			contaminated land poses some level of risk but the key issue is whether or not this risk is acceptable for human health and the environment in accordance with industry guidelines.	<u>redeveloped, it is managed or remediated in a way that prevents or mitigates adverse effects and unacceptable risk on human health and the environment.</u>	

One submission was received on Policy 9.2.4 which sought amendments to clarify the purpose of the Policy.

4.24.2 Discussion & Evaluation

1. The Oil Companies (93.16) seek amendments to Policy 9.2.4 to ensure that the intent and focus of the Policy is clear. The Oil Companies submit that the focus of the Policy should be on the need for management of contaminated land during subdivision, use or redevelopment in order to prevent or mitigate adverse effects and unacceptable risk on human health and the environment.
2. As discussed earlier, it is recommended that remediation remains as a land use activity that is to be managed and this is clarified in the recommended amendments to the Issue Discussion for Issue 9.2. For this reason, I recommend that remediation is retained in Policy 9.2.4 as an activity that must be managed in its own right to prevent or avoid adverse effects and risk on the environment.
3. In terms of the included reference to 'unacceptable' risk, I consider that the Policy should align with the terminology provided in the NES. The NES refers to "risk to human health" and I recommend that Policy 9.2.4 remains consistent with the direction and requirements of the NES. I recommend that submission point 93.16 is rejected.

4.24.3 Reporting Officer's Recommendation

Sub. No	Further Sub. No.	Submitter Name	Further Submitter Position	Officer's Recommendation
93.16		The Oil Companies		Reject

4.24.4 Recommended Amendments to the Plan Provisions

No amendments are recommended to Policy 9.2.4.

4.25 Policy 9.2.5

4.25.1 Submissions Received

Sub No.	Submitter Name	Support/ In-Part/ Oppose	Summary of Submission	Decision Requested	Further Submission
93.17	The Oil Companies	In-Part	Support the general intent of Policy 9.2.5 to the extent that it recognises the various management options of remediation, containment and disposal. Changes are sought to the wording of Policy 9.2.5 to recognise these options are subsets of the management of contaminated land and to refer to the 'proposed' future use of land, rather than 'likely' future use of land, which may require consideration of a much broader range of possible uses, including more sensitive uses.	Amend Policy 9.2.5 as follows: Require management measures for contaminated land, <u>which may include that provides</u> for remediation, or containment, or disposal of contaminated soil, <u>to ensure that any so the level of</u> contamination is appropriate for <u>the proposed any likely</u> future use of the land.	

One submission was received on Policy 9.2.5. This submission seeks amendment to recognise options which are subsets of the management of contaminated land.

4.25.2 Discussion & Evaluation

1. The Oil Companies (93.17) seek amendment to Policy 9.2.5 to recognise that remediation, containment and disposal of contaminated soil are subset options of the management of contaminated land and to reduce the scope of consideration for the future use of the contaminated land site.
2. I consider that the suggested wording helps to clarify that there are a number of options or measures in managing contaminated land. I am satisfied that these amendments uphold the intent of the Policy while recognising the range of management measures for managing contaminated land. For this reason, I recommend that submission point 93.17 is accepted.

4.25.3 Reporting Officer's Recommendation

Sub. No	Further Sub. No.	Submitter Name	Further Submitter Position	Officer's Recommendation
93.17		The Oil Companies		Accept

4.25.4 Recommended Amendments to the Plan Provisions

Amend Policy 9.2.5 as follows:

Require management measures for contaminated land, which may include that provides for remediation, or containment, or disposal of contaminated soil, to ensure that any so the level of contamination is appropriate for the proposed any likely future use of the land.

4.26 Policy 9.2.6

4.26.1 Submissions Received

Sub No.	Submitter Name	Support/ In-Part/ Oppose	Summary of Submission	Decision Requested	Further Submission
93.18	The Oil Companies	Support	Support Policy 9.2.6	Retain intent of Policy 9.2.6 without modification.	

One submission was received in support of Policy 9.2.6.

4.26.2 Discussion & Evaluation

1. The Oil Companies (93.18) made a submission in support of Policy 9.2.6. This support is noted and I recommend that submission point 93.18 is accepted.

4.26.3 Reporting Officer's Recommendation

Sub. No	Further Sub. No.	Submitter Name	Further Submitter Position	Officer's Recommendation
93.18		The Oil Companies		Accept

4.26.4 Recommended Amendments to the Plan Provisions

No amendments are recommended to Policy 9.2.6.

4.27 Chapter 26: Definitions - Contaminated Land

4.27.1 Submissions Received

Sub No.	Submitter Name	Support/ In-Part/ Oppose	Summary of Submission	Decision Requested	Further Submission
93.27	The Oil Companies	Support	Support definition for Contaminated Land.	Retain definition of Contaminated Land without modification.	

One submission was received in support of the definition provided for Contaminated Land.

4.27.2 Discussion & Evaluation

1. The support for the definition of Contaminated Land in Chapter 26 of the Proposed Plan by the Oil Companies (93.27) is noted. I recommend that submission point 93.27 is accepted.

4.27.3 Reporting Officer's Recommendation

Sub. No	Further Sub. No.	Submitter Name	Further Submitter Position	Officer's Recommendation
93.27		The Oil Companies		Accept

4.27.4 Recommended Amendments to the Plan Provisions

No amendments are recommended to the definition of Contaminated Land in Chapter 26 of the Proposed Plan.

5. Conclusion and Main Recommended changes from Proposed Horowhenua District Plan (as notified)

Section 9 and 23 (Hazardous Substances and Contaminated Land) in the Operative District Plan were subject to a thorough review as a result of changes to national legislation including the introduction of a National Environment Standard for Assessing and Managing Contaminated Soil to Protect Human Health (January 2012) and amendments to the primary piece of legislation for the management of hazardous substances, the Hazardous Substances and New Organisms Act.

The Operative Plan provisions in relation to Hazardous Substances and Contaminated Land have not been subject to any Plan Changes since the District Plan became operative in 1999.

The majority of submissions received on Chapter 9 - Hazardous Substances and Contaminated Land and Chapter 23 - Hazardous Substances and associated provisions, were by a relatively small number of submitters. Consistent themes of submissions included the roles and responsibilities for the disposal of hazardous substances, refinement of the exemptions of provisions in Rule 23.1 and Controlled Activity provisions in Rule 23.3, and the distinction between remediation and management measures in relation to contaminated land. Other submissions sought minor changes to provide certainty and clarity on the management of hazardous substances and contaminated land in the Horowhenua.

The officer's recommendations on the key issues raised in the submissions include:

- Removing the responsibility for Council to consider the adverse environmental effects of the disposal of hazardous substances as this is a function and responsibility of the Regional Council not the District Council.
- Providing consistency with relevant applicable national Guidelines and Group Standards for those exempt activities involving hazardous substances.
- Providing clarity around the distinction between management measures and remediation in avoiding or mitigating the adverse environmental effects of the use of contaminated land.

The changes that have been recommended as a result of the submissions received do not change the purpose or intent of any provisions but rather provide greater certainty and clarity for plan users in the application of these provisions. These changes are set out in their entirety in Section 6.1 below.

6. Appendices

6.1 Proposed District Plan as amended per officer's recommendations

Chapter 9: Hazardous Substances and Contaminated Land

Amend Objective 9.1.1 to read:

"To ensure that adequate measures are taken to avoid or mitigate the adverse environmental effects of the use, storage, and transport ~~and disposal~~ of hazardous substances."

Amend Policy 9.1.5 to read:

"Limit the use, and storage ~~and disposal~~ of hazardous substances near any of the following areas:..."

Amend Policy 9.1.6 to read:

"Establish controls to ensure that facilities which involve the use, storage, or transport ~~or disposal~~ of hazardous substances..."

Amend Policy 9.1.8 as follows:

"Appropriate facilities and systems are to be provided ~~to~~ that seek to avoid accidental events involving hazardous substances (such as spills and gas escapes) that have the potential to create unacceptable risks to the environment and human health."

Amend Issue 9.2 to read:

"The use and development of potentially contaminated land can lead to adverse effects on the environment and human health, when the necessary remediation or management measures ~~works~~ have not been undertaken prior to use."

Amend Issue Discussion for Issue 9.2 as follows:

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

In circumstances where more sensitive land uses are proposed on land that has not been fully remediated (but level of contamination was acceptable for the previous land use) or is potentially contaminated land, it is important to ensure that the land is remediated to a satisfactory degree to avoid or reduce risks to human health. Alternatively, contaminated land needs to be managed so

that it does not pose an unacceptable risk to current or future owners, occupiers and/or users. The on-going management of contaminants on land needs to be adequate to protect the reasonably foreseeable needs of present and future owners, occupiers and users. Poorly implemented risk management plans and poorly managed information can result in uninformed land use decisions and expose people and the environment to unacceptable risks.

Horizons Regional Council has accepted principal responsibility for identifying and investigating contaminated sites within the region. 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. The National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health directs the requirement for consent or otherwise for activities on contaminated or potentially contaminated land in this regard.”

Amend Objective 9.2.1 to read:

To avoid, or mitigate the risk of adverse effects from the subdivision, use, redevelopment or remediation of contaminated and potentially contaminated land on human health and the environment.

Amend Policy 9.2.3 as follows:

Require development sites that have a history of land use that could have resulted in contamination of the soil to undertake a preliminary site investigation to confirm whether further investigation, remediation or management is required, to ensure that the land is suitable for ~~increased~~ the intended exposure to humans and the environment.

Amend Policy 9.2.5 as follows:

Require management measures for contaminated land, which may include ~~that provides for~~ remediation, or containment, or disposal of contaminated soil, to ensure that any ~~so the level of~~ contamination is appropriate for the proposed ~~any likely~~ future use of the land.

Chapter 23: Hazardous Substances

"(e) Storage of ~~superphosphate or lime or similar~~ fertilisers on farms for the purpose of primary production in the Rural Zone where that storage is in accordance with the Fertiliser Group Standards (corrosive (HSR002569), oxidising (HSR002570, subsidiary hazard HSR002571) and Toxic (HSR002572) 2006.

...

Note: The exemptions specified in Rule 23.1 are still subject to the requirements in the Horizons Regional Council Proposed One Plan."

Amend Rule 23.3.1 as follows:

- (a) The retail sale of fuel, up to a storage of 100,000 litres of petrol and up to 50,000 litres of diesel in all zones ~~excluding the Rural Zone and the Industrial Zone~~, in underground storage tanks, provided it can be demonstrated that the following Codes of Practice are adhered to:
- Below Ground Stationary Container Systems for Petroleum - Design and Installation HSNOCOP 44, EPA, 2012.
 - Below Ground Stationary Container Systems for Petroleum – Operation HSNOCOP 45, EPA, 2012.
- (b) The retail sale of LPG, with a storage of up to six tonnes (single or multi vessel storage) of LPG, provided that the maximum number of individual vessels stored does not exceed 30 and provided it can be demonstrated that the following standard is adhered to:
- Australian and New Zealand Standard 1596:2008 Storage and Handling of LP Gas."

Chapter 26: Definitions

Amend Chapter 26: Definitions as follows:

"Hazardous Facility means any activity involving hazardous substances and the sites where hazardous substances are used, stored, handled or disposed of, and any installations or vehicles parked on site that contain hazardous substances. ~~Hazardous facility does not include any of the following:~~

- ~~• The incidental use and storage of hazardous substances in domestic quantities.~~
- ~~• Fuel in motor vehicles, boats and small engines.~~
- ~~• Retail outlets for domestic usage of hazardous substances (e.g. supermarkets, hardware shops, pharmacies, home garden centres).~~
- ~~• Gas and oil pipelines.~~
- ~~• Trade waste sewers."~~

6.2 Schedule of Officer's Recommendations on Submission Points

Sub. No	Further Sub. No.	Submitter Name	Further Submitter Position	Officer's Recommendation
93.00		The Oil Companies		Accept
93.12		The Oil Companies		Accept
27.10	517.17	Horizons Regional Council Horticulture NZ	In-Part	Accept Accept In-Part
93.01		The Oil Companies		Accept
93.02		The Oil Companies		Accept
93.03		The Oil Companies		Accept
98.31		Horticulture NZ		Accept
93.04		The Oil Companies		Accept
27.11	517.18	Horizons Regional Council Horticulture NZ	In-Part	Accept Accept In-Part
93.05		The Oil Companies		Accept
27.12	517.19	Horizons Regional Council Horticulture NZ	In-Part	Accept Accept In-Part
93.06		The Oil Companies		Accept
93.07		The Oil Companies		Accept
93.08		The Oil Companies		Accept In-Part
93.09		The Oil Companies		Accept
93.10		The Oil Companies		Accept
11.28	504.00 519.23	Philip Taueki The Oil Companies Charles Rudd	Oppose Support	Reject Accept Reject
60.27		Muaupoko Co-operative Society		Reject
96.39	506.23 513.19 517.37	Federated Farmers Ernslaw One Ltd Rayonier New Zealand Ltd Horticulture NZ	Support Support In-Part	Accept In-Part Accept In-Part Accept In-Part Accept In-Part

98.48		Horticulture NZ		Accept
41.46		Powerco		Accept
98.49		Horticulture NZ		Reject
98.50		Horticulture NZ		Reject
93.25		The Oil Companies		Accept
93.26		The Oil Companies		Accept In-Part
93.29		The Oil Companies		Accept
95.46		New Zealand Defence Force (NZDF)		Accept
96.42		Federated Farmers		Accept In-Part
98.04		Horticulture NZ		Accept In-Part
93.11		The Oil Companies		Accept
93.13		The Oil Companies		Accept In-Part
93.14		The Oil Companies		Accept
93.15		The Oil Companies		Accept
98.32		Horticulture NZ		Reject
93.16		The Oil Companies		Reject
93.17		The Oil Companies		Accept
93.18		The Oil Companies		Accept
93.27		The Oil Companies		Accept

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