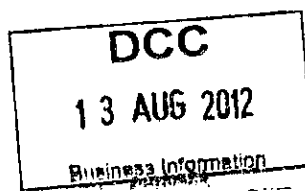


Environmental Consultants

PO Box 489, Dunedin 9054
New Zealand
Tel: +64 3 477 7884
Fax: +64 3 477 7691

9 August 2012

Dunedin City Council
PO Box 5045
Dunedin



Our Ref: 6862

Attn. Paul Freeland/Kirstyn Lindsay

Dear Sir/Madam

RE: NOTICE OF APPEAL – LPG ASSOCIATION OF NEW ZEALAND LTD

Please find enclosed by way of service a copy of a notice of appeal lodged by the LPG Association of New Zealand Limited against a decision of Dunedin City Council on Plan Change 13- Hazardous Substances

Yours sincerely,

MITCHELL PARTNERSHIPS LIMITED

A handwritten signature in black ink, appearing to read 'CH Hunter'.

CLAIRE HUNTER

Email: claire.hunter@mitchellpartnerships.co.nz

Enc

**IN THE ENVIRONMENT COURT
AT CHRISTCHURCH**

IN THE MATTER OF

the Resource Management Act 1991

AND

IN THE MATTER OF

Of an appeal pursuant to clause 14 of the
First Schedule to the Act

BETWEEN

**THE LPG ASSOCIATION OF NEW
ZEALAND LIMITED**

AND

DUNEDIN CITY COUNCIL

NOTICE OF APPEAL

TO: The Registrar
Environment Court
CHRISTCHURCH

1. The **LPG ASSOCIATION OF NEW ZEALAND LIMITED (Appellant)** appeals against decisions of the Dunedin City Council (**Respondent**) on Proposed Plan Change 13 (Hazardous Substances) to the Dunedin City Council District Plan (**District Plan**).
2. The Appellant made a submission on Plan Change 13.
3. The Appellant is not a trade competitor for the purposes of section 308D of the Act.
4. The Appellant received notice of the (reissued) decisions on 7 July 2012.
5. The decisions were made by the Respondent.
6. The decisions appealed, reasons for appeal and relief sought are generally grouped together by topic and are set out below generally in the order in which the relevant provisions appear in Plan Change 13.
7. **Whole of Plan Change**
 - 7.1 The decisions appealed are as follows:
 - (a) The decision not to accept the Appellant's submission that the effects arising from the handling, storage and use of LPG are fully understood and properly dealt with under the existing hazardous substances regulations (Hazardous Substances and New Organisms Act 1996 (**HSNO**)) such that it is therefore unnecessary for the territorial authority to duplicate such controls in the District Plan without sufficient justification.
 - (b) The decision not to accept the Appellant's submission that the District Plan should provide for realistic and uniform volumes of LPG storage, as a permitted activity.

7.2 The reasons for the appeal are as follows:

- (a) The Appellant appreciates that territorial authorities have a function under the RMA to control any actual or potential effects of the use, development, or protection of land, including for the purpose of... the prevention or mitigation of any adverse effects of the storage, use, disposal, or transportation of hazardous substances. However, for LPG the effects arising from its handling, storage and use are fully understood and are dealt with under HSNO Act and Regulations. The HSNO Regulations are the primary control mechanism for managing hazardous substances, and adopt a conservative approach based on international best practice. They also very clearly cover all aspects of the potential effects of LPG including the effects arising from its handling, storage and use.
- (b) LPG is classified as a Class 2.1.1A hazardous substance (i.e. a high hazard flammable gas) under the Hazardous Substances (Classifications) Regulations 2001¹. The HSNO regulations require that location test certificates be issued for any location using or storing more than 100kg of LPG. The regulations cover all aspects of the effects arising from the handling, storage and use of LPG, including safety and risk management.
- (c) The operations of the LPG Industry have always been tightly regulated, and the HSNO Regulations clearly identify the effects of LPG (fire and explosion) and deal with the potential effects on surrounding areas through provision of separation distances from areas of low and high intensity land use.

¹ Schedule 2 of the Hazardous Substances (Classifications) Regulations 2001 lists the criteria for the Class 2.1.1A Classification as follows:

- "(a) a gas or gas mixture that, at 20 degrees Celsius and at a pressure of 101.3 kilopascals absolute, is ignitable when in a mixture of 13% or less by volume with air; or*
- (b) a gas or gas mixture that, at 20 degrees Celsius and at a pressure of 101.3 kilopascals absolute, has a flammable range with air of at least 12 percentage points regardless of the lower flammability limit, where flammability is determined when tested in accordance with the test procedure for determining the flammability of gases and gas mixtures as prescribed in section 5 ISO 10156:1996."*

- (d) The Respondent has increased the limit of LPG as a permitted activity from 180kg to 200kg (in Groups 2, 3, 5 and 7). The Appellant considers that requiring resource consent for a 200kg limit seems unnecessary and the justification for this limit has not been adequately provided by the Respondent in its decision. The acceptability of a 200kg limit (across all Groups except 1 and 6) has not been suitably justified by the Respondent in resource management terms (risk, amenity effects) and does not appear to have been derived from any sound evidential reasoning.
- (e) The Appellant is also concerned that Plan Change 13 results in an unnecessary and inefficient double up in the regulation of the management of LPG. Suppliers, users and consumers of LPG are being adversely affected by the significant variations in District Plan standards promoted between territorial authorities and from the inefficient double up that occurs when District Plan's set standards which mimic the provisions imposed by other statutes and which already control the storage, handling and use of LPG.

7.3 The Appellant seeks that the permitted thresholds for LPG storage promoted by Plan Change 13 are either deleted, or replaced with realistic and uniform volumes similar to those used by other major urban territorial authorities in their District Plans.

8. **Rule 17.5.1**

Permitted Activities, Table 17.1

8.1 The decision appealed is as follows:

- (a) The decision not to accept the Appellant's submission that all indoor storage limits for LPG be deleted from Table 17.1.
- (b) The decision not to accept the Appellant's submission to delete all outdoor storage limits for LPG, and to replace these with total storage quantities similar to those used by other major urban territorial authorities.

8.2 The reasons for the appeal are as follows:

- (a) The Respondent has amended the threshold for LPG in Table 17.1 (Gases & Aerosols 2.1.1A) to one based on a "Total Storage Quantity" as sought by the Appellant, however the thresholds employed still include reference to indoor storage. The indoor storage of LPG is managed under HSNO. HSNO sets maximum indoor quantities for specific activities (i.e. 20kg for a dwelling, 10kg for a multi-storey dwelling). Including these limits in the District Plan as permitted activity thresholds, gives the user the impression that resource consent can be applied for to store a quantity of LPG in excess of the indoor storage limits, which is not permissible under the HSNO regulations.
- (b) With the exception of the Port Zone (Group 6) the Respondent has set a permitted limit of 200kg for LPG throughout the various zones of the City. Expert evidence provided to the Respondent at the first instance hearing set out that there needed to be sound resource management reasons for setting such thresholds and that the introduction of District plan based limitations needed to be adequately justified in terms of section 32 of the RMA. The Appellant considers that requiring consent for quantities of LPG that are similar to the thresholds set under the HSNO Act is unlikely to better enable the management of hazard risk associated with the use and storage of LPG. Significant caution is built into the current HSNO provisions to ensure the risk to human health and wellbeing is extremely low arising from the transportation, handling, use and storage of LPG. The Respondent has not provided clear evidence to determine what is missing from the HSNO regulations that might result in concern for the Council particularly in relation to the handling, storage and use of LPG, to the extent that it sees a need to introduce additional controls in the District Plan.
- (c) The Respondent has not provided sufficient evidence in its decision to show that the additional costs associated with imposing duplicated controls on the handling, storage and use of LPG are justified.

- 8.3 The Appellant seeks that the thresholds for LPG in Table 17.1 be deleted as a first priority; or in the alternative that the thresholds be revised to be similar to those used by other major urban territorial authorities.

9. **Rule 17.5.2**

Controlled Activities

- 9.1 The decision appealed is as follows:

- (a) The decision to reject the Appellant's submission on Rule 17.5.2, clause (i)(b).

- 9.2 The reasons for this appeal are as follows:

- (a) If Plan Change 13 is confirmed, any person wanting to store LPG in a 222kg cylinder will need resource consent as a controlled activity. Under Plan Change 13, Rule 17.5.2 sets out the matters of control which are applicable to controlled activities. All of the matters set out in Rule 17.5.2 are addressed under the HSNO regulations and the New Zealand Standard which relates to the storage and handling of LPG (AS/NZS 1596:2008). Given that consent for a controlled activity must be granted (subject to conditions) and the matters of control are all addressed via HSNO regulations and requirements, the Appellant is not clear what additional benefit will be achieved or what environmental effect (not otherwise managed) will be addressed by requiring consent in terms of the District Plan.
- (b) The Respondent has stated in its decision that the rule will also allow Council to have regard to the Fourth Schedule of the RMA. The Respondent sets out that it will enable the Council to insist on increased mitigation and containment requirements when located in sensitive areas.
- (c) In accordance with section 87A of the RMA, if an activity is described as a controlled activity, the consent authority's power to impose conditions on the resource consent is restricted to the matters over which control is reserved. The Fourth Schedule is not listed as a matter of control in Rule 17.5.2. As such conditions relating to matters raised therein cannot reasonably be imposed on consents that would

ultimately be issued. In addition, the Fourth Schedule imposes requirements on applicants and it is not appropriately referred to as a District Plan assessment matter, in the manner that Plan Change purports to do so.

9.3 The Appellant seeks that Rule 17.5.2(i)(b) should be deleted from the Plan.

10. Further Reasons for the Appeal

10.1 In addition to the matters set out in paragraphs 7 – 9 above, the further reasons for the appeal are that the Respondent's decision:

- (a) Will not promote the sustainable management of natural and physical resources and is contrary to Part 2 and other provisions of the Act;
- (b) Is not necessary to avoid, remedy or mitigate adverse effects on the environment; and
- (c) Does not represent the most appropriate means of exercising the Respondent's functions, having regard to the efficiency and effectiveness of other available means and therefore is inappropriate in terms of section 32 and other provisions of the Act.

11. Further relief sought

11.1 In addition to the matters set out in paragraphs 7 - 9 above, the Appellant seeks the following relief:

- (a) Any similar relief with like effect;
- (b) Any consequential amendments to Plan Change 13 which arise from the Appellant's submission, the reasons for the appeal or the relief sought; and
- (c) Such other relief as the Court considers appropriate.

12. Attachments

12.1 Copies of the following documents are attached to this appeal:

- (a) The Appellant's submission (**Annexure A**);
- (b) The relevant parts of the Respondent's decisions (**Annexure B**); and
- (c) A list of the names and addresses of the persons to be served with a copy of this notice of appeal (**Annexure C**).

Signature:

the **LPG ASSOCIATION OF NEW ZEALAND**
by its duly authorised agent:

Peter Gilbert

Date:

7 August 2012

Address for service of Appellant:

Mitchell Partnerships
PO Box 489
DUNEDIN

Attention: Claire Hunter

Tel: 03 477 7884

Fax: 03 477 7691

Email: claire.hunter@mitchellpartnerships.co.nz

Advice to recipients of copy of notice of appeal

How to become party to proceedings

You may be a party to the appeal if you made a submission or a further submission on the matter of this appeal and you lodge a notice of your wish to be a party to the proceedings (in form 33) with the Environment Court within 15 working days after the period for lodging a notice of appeal ends.

Your right to be a party to the proceedings in the Court may be limited by the trade competition provisions in section 274(1) and Part 11A of the Resource Management Act 1991.

You may apply to the Environment Court under section 281 of the Resource Management Act 1991 for a waiver of the above timing requirements (see form 38).

How to obtain copies of documents relating to appeal

The copy of this notice served on you does not attach a copy of the appellant's submission or the decision appealed. These documents may be obtained, on request, from the appellant.

Advice

If you have any questions about this notice, contact the Environment Court Unit of the Department for Courts in Auckland, Wellington or Christchurch.

Annexure A

A copy of the Appellant's Submission



SUBMISSION FORM 5
Clause 6 of First Schedule, Resource Management Act 1991

**Submission on publicly notified proposed
District Plan Change 13 – Hazardous Substances.**

Submissions can be:

Posted to: Planning Policy Manager, Dunedin City Council, PO Box 5045, Moray Place, Dunedin 9058

Delivered to: Planning Enquiries, Customer Service Centre, Civic Centre, 50 The Octagon, Dunedin

Faxed to: 474 3451 (if you fax your submission, please post or deliver a copy to one of the above addresses)

Emailed to: planning@dcc.govt.nz

Note to Submitter: The closing date for serving submissions on the Dunedin City Council is **12 December 2011**.

Your name and contact details:

Your Full Name: LPG Association of New Zealand

Full Address: PO Box 1776, Wellington 6140. Attention: Peter Gilbert

Telephone: 04 473 9519

Facsimile: _____

Email Address: p.gilbert@ganz.org.nz

I: **Do/Do-Not** wish to be heard in support of this submission at the hearing

If others make a similar submission, I will consider presenting a joint case with them at a hearing.
(Delete the above statement if you would not consider presenting a joint case at a hearing)

The specific provisions of Proposed District Plan Change 13 that my submission relates to are:

(You should include whether you support or oppose the specific provisions or wish to have them amended. You should also state the reasons for your views. Please continue on a separate sheet if necessary.)

Please see 1 attached.

My submission is that:

(You should include whether you support or oppose the specific provisions or wish to have them amended. You should also state the reasons for your views. Please continue on a separate sheet if necessary.)

Please see 2 attached.

I seek the following decision from the Council:

(Please give precise details.)

Please see 3 attached.

Signature of submitter: _____ **Date:** 12 December 2011
(or person authorised to sign on behalf of submitter)

Please note that submissions are public. Your name and submission will be included in papers that are available to the media and the public. Your submission will only be used for the purpose of the plan change process.

Electronic Submissions: A signature is not required if you make your submission by electronic means. Submissions can be sent by email to planning@dcc.govt.nz

SUBMISSION TO DUNEDIN CITY COUNCIL ON PROPOSED PLAN CHANGE 13 - HAZARDOUS SUBSTANCES

1. THE SPECIFIC PROVISIONS OF PROPOSED PLAN CHANGE 13 THAT MY SUBMISSION RELATES TO ARE:

Section 17: Hazards, Hazardous Substances and Earthworks

17.5 Rules Hazardous Substances

- Rule 17.5.1 Permitted Activities
 - Clauses (iv), (v), (vi) and (vii) [The LPG Association seeks to have the location of these clauses amended]
 - Table 17.1 [The LPG Association seeks to have parts of Table 17.1 deleted and parts amended]
- Rule 17.5.2 Controlled Activities
 - Clause (i)(b) [The LPG Association seeks to have Clause (i)(b) deleted from Rule 17.5.2]

2. MY SUBMISSION IS THAT:

2.1 INTRODUCTION

The LPG Association of New Zealand was founded in 1977 and represents all major LPG companies in New Zealand. The Association is responsible for:

- Setting industry technical and safety standards, and working with members and other stakeholders to promote the safe and efficient use of LPG.
- Working with Government and officials to develop effective and responsible legislative and regulatory environments.
- Producing Codes of Practice and contributing to relevant Standards.
- Ensuring appropriate cylinder filling training is available for industry personnel and producing training materials.
- Supporting members efforts to promote LPG.
- Gathering statistical information on LPG use in New Zealand.
- Providing a forum for members to share relevant information and keep up to date with developments.

The association promotes the safe and increased use of LPG and works to secure a favourable environment for the production, marketing and distribution of LPG. The Association also serves as the principal voice of the LPG industry to Government and the community.

2.2 BACKGROUND

The LPG Association has been finding that consumers are being adversely affected by the significant variations in District Plan standards between territorial authorities and in the duplication between District Plan standards and those provisions of other statutes as they relate to the storage and use of LPG.

Investigations carried out by Good Earth Matters Consulting, on behalf of the LPG Association, revealed that there is significant variation in the permitted activity standards in District Plans for residential areas (ranging from 50kg to 2,000kg) and that there is inconsistency in the interpretation of the relevant statutes, e.g. Hazardous Substances and New Organisms Act (HSNO), the Resource Management Act (RMA) and District Plans.

The inconsistencies and duplication are turning potential users away from LPG for space heating, water heating and cooking and towards other energy sources. When potential consumers discover that a resource consent under the

RMA and a location test certificate under HSNO are both required, with their associated time delays and substantial costs, other options such as wood, oil, coal or electricity become more desirable. However, these forms of energy have their own environmental effects, with wood and coal producing particulate emissions, oil burners producing sulphur emissions and increasing loads on electricity networks creating stress on infrastructure.

Currently there is no uniform approach to setting and administering the quantity of LPG that can be stored and used at a residential dwelling or at any premises 'as of right'. This has resulted in vastly different and often ineffective provisions across the country. In response to the above issues, the LPG Association has been seeking to have District Plans provide for realistic and uniform volumes of LPG storage, as a permitted activity, throughout New Zealand.

2.3 HAZARDOUS SUBSTANCES AND NEW ORGANISMS ACT 1996

As discussed above, the LPG Association is finding that there is significant duplication between District Plan LPG requirements formulated under the RMA and the requirements for location certificates under the HSNO Act. The association appreciates that territorial authorities have a function under the RMA to control any actual or potential effects of the use, development, or protection of land, including for the purpose of... the prevention or mitigation of any adverse effects of the storage, use, disposal, or transportation of hazardous substances. However, for LPG the effects are fully understood and are fully dealt with under HSNO regulations.

The HSNO regulations require that location test certificates be issued for any location using or storing more than 100kg of LPG. The regulations cover all aspects of the effects of LPG, including safety and risk management, through requirements relating to the engineering design of the containers, the separation distances on the site itself and separation distances from the location to other sites. Recent changes to the regulations now mean that LPG suppliers cannot legally deliver LPG to sites that require a location test certificate and do not have one. In effect the LPG supply industry is now part of the compliance regime, ensuring that all installations comply with the HSNO regulations.

Prior to the implementation of the HSNO Act 1996 and associated regulations, LPG installations were largely the domain of the territorial authorities Dangerous Goods Inspectors through enforcement of the Dangerous Goods Act. Since the introduction of the HSNO Act the involvement of territorial authorities in LPG installations ought to have decreased for anything other than bulk, large scale, quantities of LPG.

2.4 SPECIFIC DETAILS OF SUBMISSION

2.4.1 Rule 17.5.1 Permitted Activities

Clauses (iv), (v), (vi) and (vii)

Rule 17.5.1 outlines activities that are permitted activities and lists seven Clauses, (i) to (vii), which can be carried out as of right. It is submitted that whilst Clauses (i) to (iii) are activities, i.e. something that can be carried out, Clauses (iv) to (vii) are not activities. They are advice notes that provide guidance to the plan user when interpreting Table 17.1 and should not be contained within the list of permitted activities under Rule 17.5.1. Clauses (i) to (vii) should be deleted from Rule 17.5.1 and included in a user guide at the start of Table 17.1.

Table 17.1

Table 17.1 outlines quantity limits and conditions for the storage and use of hazardous substances. The LPG Association's concern is limited to the quantity limits relating to LPG.

LPG (including propane based refrigerant) in cylinders.

Table 17.1 specifies quantity limits for indoor storage and outdoor storage across seven groups. The indoor storage limit across Groups 2 to 7 is set at 20kg and for Group 1 it is set at 20kg per dwelling except for multistorey attached dwellings of over three storeys where the limit is 10kg per dwelling. It is submitted that these indoor storage limits are inappropriate for all Groups 1 to 7 and should be deleted from Table 17.1.

The HSNO regulations already limit the quantity of LPG that can be stored in dwellings or multistorey attached dwellings to 20kg and 10kg respectively. By including these limits in the District Plan gives the user the impression

that a resource consent can be applied for to exceed these limits, which of course cannot be done as it would be unlawful under the HSNO regulations. This creates unnecessary confusion and consequent inefficiencies for District Plan users. The HSNO regulations also provide for maximum quantities for indoor storage in hotels, bars, restaurants, offices, factories and warehouses, among others, that do not always align with the limits set in Proposed Plan Change 13. Overall, it is considered that the HSNO regulations already adequately deal with indoor storage of LPG and additional regulation by means of District Plan rules is ineffective and inefficient, if not unlawful, and is therefore not required.

In terms of the outdoor storage of LPG, Proposed Plan Change 13 provides for a maximum quantity of 180kg across all Groups. Again it is submitted that the HSNO Regulations adequately deal with outdoor storage of LPG and that duplication in the District Plan is not required. The duplication of regulations is causing undue costs and inefficiencies to the community and therefore the inclusion of such low quantity thresholds of LPG is unwarranted.

It is requested that the outdoor storage quantities be replaced with a 'total storage quantity' and that such limits be in line with the thresholds used by other territorial authorities such as Christchurch City Council. A summary of the limits used in the Christchurch City Plan is provided below in Table 2.1 and Schedule 2 of the Christchurch City District Plan (describing the zone groupings and maximum quantities) is attached to this submission.

Table 2.1
Summary of CCC District Plan permitted activity maximum volumes for LPG storage and use

	Schedule 2 - Zone Groupings for Hazardous Substances			
	Group 1 All living zones (except living 5)	Group 2 All rural zones	Group 3 Living 5 Zone, Business zones, Central City Zone	Group 4 Business Zones, Special Zones
2.1.1	300kg	600kg	2000kg	8000kg

Such limits will reduce a lot of the duplication, inefficiencies and costs for people wishing to use the quantities of LPG commonly required or in use across the various zones and activity groups.

2.4.2 Rule 17.5.1 Controlled Activities

Clause (i)(b)

This rule requires that anyone wanting store LPG in a 222kg cylinder will need to seek a controlled activity resource consent. Again, this represents a duplication of process and increased costs for consumers. Being a controlled activity the consent must be granted, but may be subject to conditions. The matters that Council has retained control over include:

- a. Location and design of storage tanks.
- b. Monitoring systems.
- c. Emergency response plans.
- d. Site security and containment.

The assessment matter that Council has specified for the storage of LPG is the adherence to the Hazardous Substances (Classes 1-5 Controls) Regulations 2001 and to AS/NZS 1596:2008 "The Storage and Handling of LP Gas".

These matters of control are addressed under the HSNO regulations, which are the same regulations that the Council has specified as the assessment matters for the storage of LPG. The storage of LPG is required to comply with the Hazardous Substances (Classes 1-5 Controls) Regulations 2001 and for volumes of over 100kg a location test certificate is required. It is difficult to see what value or benefit the resource consent process will add and it is submitted that the control of storage of LPG in 222kg cylinders is not required under the District Plan.

3. I SEEK THE FOLLOWING DECISIONS FROM THE COUNCIL

- That clauses (iv), (v), (vi) and (vii) be deleted from Rule 17.5.1 and that they be included in a user guide at the beginning of Table 17.1.
- That all indoor storage limits for LPG be deleted from Table 17.1.
- That outdoor storage limits for LPG be deleted from Table 17.1 and replaced with Total Storage Quantities with thresholds similar to that used by other major urban territorial authorities, such as Christchurch City.
- That clause (i)(b) be deleted from Rule 17.5.2.

Schedule 2 - Zone groupings for hazardous substances

Updated 12 September 2011

Schedule 2 - Zone groupings for hazardous substances			
Group 1	Group 2	Group 3	Group 4
<ul style="list-style-type: none"> All living zones except Living 5 Zone Special Purpose (Pedestrian Precinct) Zone Any parts of the Special Purpose (Rail) Zone within 25m of a living or rural zone boundary except for goods in transit 	<ul style="list-style-type: none"> All rural zones All conservation zones Business 4 - the Musgroves site as shown on Appendix 10, Part 3. Special Purpose (Ferrymead) Zone - Areas A, B and C Special Purpose (Wigram) Zone - Area A 	<ul style="list-style-type: none"> Living 5 Zone Business 6 Zone (Johns Road) Business 1, 2, 2P, 3B, 4, 4T and Retail Park Zones except for the Musgroves site as shown on Appendix 10, Part 3. Business 8 Zone ⁽²⁾ (Plan Change 19 Decision) Business 7 Zone excluding the area shown as hatched on Part 3 Appendix 12 for mushroom farming. Central City Zone Central City Edge Zone Cultural 1, 2, 3 Zones All open space zones Special Purpose (Ferrymead) Zone - Area D All scheduled activities ⁽²⁾ Refer to Clause 3.3.5(e) (Plan Change 19 Decision) 	<ul style="list-style-type: none"> Business 3, 4P, 5 Zones (Plan Change Decision 43) Business 6 Zone (Chaney's) Business 7 zone area shown as hatched on Part 3 Appendix 12 for mushroom farming Sites containing designated electricity substations ⁽¹⁾ Cultural 4 Zone Special Purpose (Airport) Zone ^(1a) Special Purpose (Hospital) Zone Any parts of the Special Purpose (Rail) Zone which are more than 25m from a living or rural zone boundary except for goods in transit ⁽¹⁾ Refer to Clause 3.3.6 (f) ^(1a) Refer to Clause 3.3.6 (d)

(Plan Change 54)

Schedule 2 continued - Quantity limits for hazardous substances						
Class	Group 1 Zones		Group 2 Zones		Group 3 Zones	Group 4 Zones
	A	B	A	B	A	A
1. Explosives						
1.1	0kg	-	2.5kg	-	2.5kg	50kg
1.2	15kg	-	15kg	-	15kg	50kg
2. Gases						
2.1.1	300kg	-	600kg	2000kg	2000kg	8000kg
2.1.2	100kg	250kg	100kg	250kg	250kg	250kg
2.2	10kg	250kg	10kg	250kg	1000kg	1000kg
2.3	100kg	250kg	100kg	250kg	250kg	1000kg
3. Flammable Liquids						
3.1 aboveground storage ⁽¹⁾	50l	-	2000l		3000l ⁽⁴⁾	5000l ⁽⁴⁾
underground storage	0l	-	2000l	-	5000l ⁽⁴⁾	50000l ⁽⁴⁾
3.2	100l		250l		3000l	5000l
3.3 aboveground storage	1000l	-	2000l	-	5000l ⁽⁴⁾	30000l ⁽⁴⁾
underground storage	1000l	-	2000l	-	30000l ⁽⁴⁾	30000l ⁽⁴⁾
4. Flammable Solids						
4.1	1.0kg	-	1.0kg	-	25kg	50kg
4.2	1.0kg	-	1.0kg	-	25kg	50kg
4.3	1.0kg	-	1.0kg	-	25kg	50kg
5. Oxidising Substances						
5.1	50kg	-	50kg	-	1000kg	2000kg
5.2	1.0kg	-	1.0kg	-	25kg	200kg
6. Toxic and Infectious Substances						
6.1.1 Poisonous Substances	1.0kg	-	1.0kg	-	200kg	2000kg ⁽²⁾ ⁽³⁾
6.1.2 Agrichemicals	10kg	50kg	200kg	500kg	500kg	1000kg
7. Corrosives	10kg	-	10kg	-	1000kg	5000kg ⁽²⁾

Note :

- (1) Not applicable to motor vehicle fuel tanks, or fuel tanks in locomotives.
- (2) These limits are subject to compliance with any Hazardous Facilities Screening Procedure (HFSP) recognised by the Environmental Risk Management Authority (ERMA)
- (3) Refer to Clause 3.3.6(g) in reference to the Bayer (NZ) site on Treffers Road.
- (4) Refer also to Clause 3.3.6(a) and (b)

Annexure B

A copy of the relevant parts of the Respondent's decisions

staff to emphasise his point that the range of ammunition stored and used by gun enthusiasts were varied. He was concerned at the original limits proposed by the plan change but was satisfied that the amended threshold limits would be satisfactory

Mr Chaz Forsyth advised that he was speaking on behalf of a number of submitters in respect of the proposed threshold limits set for Class 1.1A, 1.3C and 1.4S explosives. While opposed to the original limits, **Mr Forsyth** supported the revised threshold limits proposed in the s42A report.

LPG Association of New Zealand (LPG Assn) represented by:

Mr Peter Gilbert who was attending in his capacity as Executive Director of the LPG Assn read from prepared evidence. **Mr Gilbert's** evidence provided an overview of the LPG Assn responsibilities and duties, the management of LPG and approvals required, the concerns the LPG Assn had with the proposed plan change, and to outline LPG requirements within other Districts. **Mr Gilbert** noted that there was significant variation in the way LPG was treated throughout the country. He advised the Committee of the HSNO regulations which control LPG and the safety requirements associated with these. **Mr Gilbert** believed that the proposed plan change would result in a duplication of regulation and expense for LPG users. While he considered that a blanket restriction of more than 180kg of LPG could be rationalised in residential zones, in the commercial, industrial and rural zones he found very little to justify this. **Mr Gilbert** believes that all Councils should remove LPG restrictions from their District Plans and rely on HSNO regulatory methods.

Ms Claire Hunter read from prepared planning evidence on behalf of the LPG Assn. **Ms Hunter** outlined the current legislative environment for hazardous substances and the variability between different District plans in respect of the management of LPG. **Ms Hunter** raised issues with the indoor storage limits for LPG and noted that the way the threshold was written in Table 17.1 was misleading. She also had concerns regarding the blanket controls proposed for the city. **Ms Hunter** was also concerned with the proposed activity rule in that the matters of the discretion were limited to those matters already covered by HSNO. **Ms Hunter** challenged the S32 analysis and believed there was no clear justifiable reason for Council to control hazardous substances. **Ms Hunter** while preferring no controls for LPG, promoted the Christchurch City Plan as a viable alternative if controls were required. When questioned by **Mr Freeland**, **Ms Hunter** agreed that the cascading threshold approach proposed by the plan change was, in fact, similar to that used by Christchurch City Council and it was the thresholds limits that the LPG Assn took issue with.

Mercy Hospital represented by:

Ms Joanna Dowd who read from tabled evidence. **Ms Dowd** provided an overall rationale for **Mercy Hospital's** submission and further submission. She detailed the points of relief sought by **Mercy Hospital** and contrasted the proposed thresholds with the thresholds within Dunedin's operative District Plan and plans from other Districts. **Ms Dowd** compared the proposed thresholds in respect of HSNO. She believed there were issues of transparency with the proposed plan change and S32 analysis and that the Council had not provided adequate justification for imposing more stringent thresholds than HSNO. **Ms Dowd** considered that the proposed thresholds were too low and that **Mercy Hospital** would be required to obtain resource consent unnecessarily. Overall, **Ms Dowd** sought the Group 1: Residential Zone to be increased to provide for the on-going operation of **Mercy Hospital**, or alternatively that non-residential thresholds are set for this activity. It was accepted by the Committee that **Mercy Hospital** currently enjoyed existing use rights and that the issue would arise when a change or extension to the site was initiated. It was also accepted that any change in scale would require resource consent because of the zoning of the site.

Written evidence tabled

A statement of evidence was tabled from **Mr Jonathan Green** on behalf of **Fulton Hogan Limited**. While **Fulton Hogan Limited** submitted in opposition of the proposed plan change, the amendments proposed in the S42A report addressed many of their concerns and recommended that the Committee accept the changes as proposed in the S42A report.

A statement of evidence, dated 22 March 2012, was tabled from **Ms Sonya Baird** on behalf of **TrustPower Limited**, which detailed a brief overview of the implications of the proposed plan change on **TrustPower Limited's** operations, comment on the proposed plan change in general and specific provisions within the proposed plan change. **Ms Baird** advised that wind and hydro-electricity schemes require the storage and use of hazardous substances and that the proposed plan change will adversely impact on both current and future operations carried out by them. **Ms Baird** was concerned that more stringent requirements than those required by HSNO could adversely affect their day-to-day operations.

Ms Baird considered that HSNO takes a precautionary approach and that the limits and conditions imposed by HSNO represent a conservative threshold based on a robust risk assessment. As such, **TrustPower** does not believe that the purpose of the RMA will be achieved by imposing the more stringent thresholds in the District Plan. **Ms Baird** considered that a full and complete S32 analysis has not been undertaken and that this should be carried out before a decision is made on the proposed plan change. Overall, **Ms Baird** sought that the provisions in the District Plan do not unduly restrict the efficient and ongoing use and operation of such facilities.

In response to **Ms Baird's** evidence, **Mr Freeland** advised the Committee that **TrustPower Limited** was a requiring authority and, as such, many of their sites were designated with no conditions which restricted the storage and use of hazardous substances.

Officer's response to evidence

After hearing the submitters and the questions of the Committee over the past two days, **Mrs Lindsay** was still of the opinion that this is a pragmatic and effective plan change. She considered that through the submission and hearing process, the majority of submitters' concerns were able to be addressed.

Mrs Lindsay discussed two aspects raised by submitters; the first being the relationship between the RMA and HSNO and the legality of the proposed plan change and the second being specific amendments to rules and threshold limits.

Mrs Lindsay noted that **Mr Parata**, **Mercy Hospital**, **Port Otago** and the **LPG Association** questioned how the proposed plan change was giving effect to the purpose of the RMA being *the sustainable management of natural and physical resources* and argued that the HSNO controls could achieve the purpose of the RMA adequately. She observed that notwithstanding this position, **Mercy Hospital**, **Port Otago** and the **LPG Assn** ultimately accepted the form of the plan change, if not always agreeing with specific threshold limits.

Mrs Lindsay disagreed that HSNO controls are designed to achieve the purpose of the RMA and gave examples where HSNO would not be adequate to serve the purpose of the RMA. She noted that submitters stated that under HSNO health and safety of people was taken care of, and there was no need to refer to the RMA. However, **Mrs Lindsay** asserted that the RMA also had health and safety imperatives in its purpose. She accepted that there is an overlap between these two pieces of legislation, and for that reason alone it is best to use them both in a coordinated manner rather than rely on only one in isolation to the other.

Mrs Lindsay considered that S31(1)(b)(ii) imposed a responsibility on Council to prevent or mitigate any adverse effects of the storage, use, disposal or transportation of hazardous substances. In addition, s35 placed a duty on the Council to gather information, monitor and keep records, including the monitoring of the whole or any part of the environment in its district to the extent that is appropriate to enable it to effectively carry out its functions under this act. **Mrs Lindsay** believed that the Committee could have every confidence that controlling the effects of hazardous substances is a function of the Council.

Mrs Lindsay acknowledged the points made by the above submitters regarding s142 of HSNO which provides for site-specific controls to be applied under the RMA. Within Dunedin a broad-brush zoning approach is used, whereby, the land-use undertaken in residential zones is treated as more environmentally sensitive and, therefore, stricter controls than those permitted by HSNO are deemed appropriate. As it has been shown by the support of **Federated Farmers, Fulton Hogan, Fert Research**, and in the main, **Port Otago**, the plan change has reduced restrictions where land-use is less sensitive.

Concerning Permitted Activity Rule 17.5.1 and Table 17.1 as raised by submitters during this hearing; **Mrs Lindsay** believed that the concerns of the submitters 1-28 in relation to Class 1 explosives had been addressed and she had nothing further to add to the recommendations included in the s42A report. She considered this was also true in respect of **Federated Farmers** and their comments regarding fertilisers, agrichemicals and on-site fuels storage in the Group 4: Rural zone. In regards to use and storage of fertilisers within the Group 4 zone, **Fert Research**, while supporting the recommendations made in the s42A report, requested that a number of complimentary group standards to support the Fertiliser (Subsidiary Hazard) Group Standard be included in respect of Permitted Activity Rule 17.5.1(v). **Mrs Lindsay** supported this approach and believed that it would provide further information and guidance to plan users.

Mrs Lindsay noted that, in his evidence, **Mr Parata** was concerned that small quantities of everyday hazardous substances would require resource consent. She advised the Committee that Permitted Activity Rule 17.5.1(i) provided for domestic use and storage and, as such, believed his concerns were addressed. In considering his evidence, **Mrs Lindsay** noted that 17.5.1 User Note (4) advises that the most stringent threshold should be applied to a substance where more than one class applies. She accepted that by following this advice it could in some circumstances lead to a situation whereby a substance which falls under two classes; the first class allowing a large quantity and the subsequent class having a zero threshold and the zero threshold would apply. **Mrs Lindsay** proposed that user note (4) be amended to ensure that the primary substance class sets the threshold limit. She added, for the benefit of the Committee that, the primary class is always the first class listed in the HSNO Classification and on signage and labelling.

In respect of the **LPG Association**, **Mrs Lindsay** accepted their comment regarding the intent of the residential indoor storage of LPG and proposed to change Table 17.1 - LPG 2.1.1A as it relates to Group 1: Residential zones to a total storage quantity of 200kg providing no more than 20kg is kept indoors or in the case of multi-level dwelling a 10kg limit per dwelling indoors. However, she cautioned that the LPG limits outside of the residential zone have been set following expert advice and should the Committee consider amending any limits outside of the Group 1: Residential zone then she would advise the Committee to seek Technical Expertise in this matter.

Mrs Lindsay considered the evidence of **Mercy Hospital** and empathised with the situation they find themselves in. **Mrs Lindsay** noted that given their current activity and zoning they are required to obtain resource consent for any land use activity they wish to undertake on that site, regardless of whether it relates to hazardous substances

Reasons for Decision

- (i) The Committee considers that the arguments raised by the submitters are compelling, and highlight the low risk posed by the storage of these substances at the levels set by HSNO. The committee accepts that the holders of these substances are currently well vetted by police who assess the character of the users along with the storage of the substances.
- (ii) The Committee is satisfied that the Council's Technical Expert, having obtained advice from the New Zealand Fire Service, has relaxed his stance regarding the risk posed by these substances.
- (iii) The Committee is concerned with the potential risk associated with the storage of Sodium Azide and consider that it is appropriate that resource consent be required prior to any party storing this substance.
- (vi) The Committee notes that no other submissions were received in relation to the changes proposed for Table 17.1- Class 1 thresholds as notified.

6.11 TABLE 17.1 – CLASS 2 THRESHOLDS

Submitter	Decision Sought	Further Submission
LPG Association of New Zealand (PC-13-33/b)	<p>That the outdoor limits for the outdoor storage of LPG be deleted from Table 17.1 and replaced with Total Storage Quantities with thresholds similar to those used by other major urban territorial authorities.</p> <p>That all indoor storage limits for LPG be deleted from Table 17.1</p>	
Chemsafety Limited (PC-13-41/f)	<p>That, in respect of Class 2.1.1, the terminology used be "high" or "medium" hazard flammable gases.</p> <p>That factories and warehouses permit cylinders up to 45kg capacity to a total of 180 kg per occupancy (within specified floor area limits) of Class 2.1.1A - LPG in cylinders.</p> <p>That provision be made within the plan for Class 2.1.1A - Other Liquefiable Flammable Gases.</p>	Mercy Hospital Dunedin Limited (FS-2) and Horticulture New Zealand (FS-3) support this submission in part.
Port Otago Limited (PC-13-35/a)	That the threshold for LPG does not allow them to operate their existing LPG storage facilities as a permitted activity.	
University of Otago (PC-13-29)	That a 500 litre (water capacity) threshold be set for 'Non-flammable, non-toxic cryogenic liquids (stored in accordance with AS1894-1997) in the table subclass separate to the 2NH threshold within the Group 3: Campus Zone.	

Submitter	Decision Sought	Further Submission
Mercy Hospital Dunedin Limited (PC-13-31/a)	That the whole of the plan change is opposed as the thresholds set in proposed Table 17.1 are too low, are not clearly justified and would result in unnecessary resource consent requirements.	

Discussion

The LPG Association of New Zealand (PC-13-33/b) notes that Table 17.1 outlines quantity limits and conditions for the storage and use of hazardous substances, specifically LPG. The plan changes proposes that, within the Residential Zone, a limit of 180kg of LPG is permitted outside and a 20kg threshold is permitted inside. Upon speaking to their submission, the submitter argued that it is wrong for the plan to include these limits as it may lead plan users to believe that they can apply for higher limits which would not be allowed under HSNO. The Committee accepts the submission of the LPG Assn regarding the intent of the residential indoor storage of LPG and propose to change Table 17.1 – LPG 2.1.1A as it relates to Group 1: Residential zones to a Total Storage Quantity of 200kg providing no more than 20kg is kept indoors or in the case of multi-level dwelling a 10kg limit per dwelling indoors.

Notwithstanding the suggested changes to the Group1: Residential Zone, it is agreed with the **LPG Association of New Zealand** that the indoor and outdoor storage limits be replaced with Total Storage Quantities as this will provide for the individual operating needs of those activities outside of the Residential Zone. The Council's Technical Expert still maintains that a cap of 200kg is appropriate.

In respect of storing LPG inside, **Chemsafety Limited (PC-13-41/f)** also notes that, with regard to Class 2.1.1A - LPG in cylinders, the plan should align with HSNO in that storage and use within factories and warehouses permit cylinders up to 45kg capacity to a total of 180 kg per occupancy (within specified floor area limits). The Council's Technical Expert considers that these amendments are acceptable in zones outside of the Residential Zone and excluding residential activity. The Committee are also mindful of the changes made pursuant to Clause 16(2) of Schedule 1 of the Resource Management Act 1991 which now instruct that where residential activity shares a site with a warehouse or factory the residential limits apply.

Chemsafety Limited considers that in respect of Class 2.1.1, the terminology used should be high or medium hazard "flammable gases", rather than (for example) "high hazard gases". The Council's Technical Expert considers that it is appropriate to change this reference.

Chemsafety Limited notes that currently, Class 2.1.1A – Other liquefiable flammable gases are not provided for within the proposed plan. It is considered reasonable that these gases should be provided for, and Council's Technical Expert believes that 50kg in all zones, excluding residential zones and activities, is appropriate.

Chemsafety Limited's submission is supported in part by **Mercy Hospital (FS-2)** and **Horticulture New Zealand (FS-3)**, in that it seeks consistency between Table 17.1 and HSNO.

Port Otago's submission (**PC-13-35/a**) states that, the thresholds proposed by Table 17.1 will unreasonably restrict their daily operation. To this end, it is recommended that the threshold of total storage quantity for LPG be increased to 600kg within the Group 6 Port Zones as this reflects what is currently occurring on this zone within each hazardous

sub facility.

The changes, proposed by the **University of Otago (PC-13-29)** for the Group 3: Campus Zone, have been assessed by the Council's Technical Expert. The Committee is satisfied with the volumes, proposed by the University of Otago for the Group 3: Campus Zone, are acceptable.

As a result of the evidence given by **Mercy Hospital (PC-13-31/a)** at the hearing, and their objection to the threshold limits proposed for the Group 1: Residential Zone, the Committee became aware of the zero threshold for Acetylene for Group 1. The Committee felt that this threshold was unduly restrictive and did not provide for small users of Acetylene. Having discussed it with the Council's Technical Expert, Mr Alexander, the Committee are comfortable with a threshold of 1kg being included for Group 1

No other submissions were received in relation to the changes to the Table 17.1: Class 2 Thresholds as notified.

Decision PC-13/6.11

The Committee's decision is to:

- (i) **reject in part** the submission of the **LPG Association of New Zealand (PC-13-33/b)** that storage thresholds are set, which are similar to those used by other major urban territorial authorities.
- (ii) **reject in part** the submission of **Chemsafety Limited**, supported in part by **Mercy Hospital (FS-2)** and **Horticulture New Zealand (FS-3)**, in that it seeks consistency between Table 17.1 and HSNO.
- (iii) **reject in part** the submission of the **LPG Association of New Zealand (PC-13-33/b)** that all indoor storage limits for LPG be deleted from Table 17.1.
- (iv) **accept in part** the submission of the **LPG Association of New Zealand (PC-13-33/b)** and the further submissions of **Mercy Hospital (FS-2)** and **Horticulture New Zealand (FS-3)** that limits for the outdoor storage limits of LPG be deleted from Table 17.1 and replaced with Total Storage Quantities and **accept in part** the submission of **Chemsafety Limited (PC-13-41/f)** and the further submissions of **Mercy Hospital (FS-2)** and **Horticulture New Zealand (FS-3)** that factories and warehouses permit cylinders up to 45kg capacity to a total of 180 kg per occupancy (within specified floor area limits) of Class 2.1.1A - LPG in cylinders. In consequence, it is recommended that Table 17.1 be amended as follows (deletions ~~scored-out~~, additions underlined):

Under Gases and aerosols/2.1.1A High hazard flammable gases/LPG (inc. propane-based refrigerant) in cylinders/Groups 2, 3, 5 and 7:

~~20kg (indoor storage)~~

~~180 kg (outdoor storage)~~

200kg Total Storage Quantity, providing indoor storage is no more than four 45kg cylinders.

Decision PC-13/6.11

The Committee's decision is to:

- (v) **accept the submission** of the **LPG Association of New Zealand (PC-13-33/b)** that the wording for the threshold limits for LPG Class 2.1.1A within the Group 1: Residential Zone be revised as follows (deletions ~~scored out~~, additions underlined) :

Under Gases and aerosols:

2.1.1A High hazard flammable gases - LPG (inc. propane-based refrigerant) in cylinders - Group 1: Residential Zones and Residential Activity in all other zones.

~~20kg per dwelling (except for multistorey attached dwellings of over 3 storeys where no more than 10kg per dwelling with max. cylinder size of 10kg) 180kg (outdoor storage)~~

200kg Total Storage Quantity, providing indoor storage is no more than 20kg per dwelling (except for multistorey attached dwellings of over 3-storeys where no more than 10kg per dwelling with max. cylinder size of 10kg? oxymoron?).

- (vi) **accept in part** the submission of **Chemsafety Limited (PC-13-41/f)** and the further submissions of **Mercy Hospital (FS-2)** and **Horticulture New Zealand (FS-3)** that, in respect of Class 2.1.1, the terminology used be "high" or "medium" hazard *flammable* gases. In consequence, it is recommended that Table 17.1 be amended as follows (addition underlined):

Under Gases and aerosols:

2.1.1A High hazard flammable gases

2.2.2B Medium hazard flammable gases

- (vii) **accept in part** the submission of **Chemsafety Limited (PC-13-41/f)** and the further submissions of **Mercy Hospital (FS-2)** and **Horticulture New Zealand (FS-3)** that, provision be made within the plan for Class 2.1.1A - Other Liquefiable Flammable Gases.

Under Gases and aerosols:

2.1.1A High hazard flammable gases

Other Liquefiable Flammable Gases:

50kg in all zones excluding residential zones

Reasons for Decision

- (iv) The Committee has determined that it is not appropriate for the thresholds listed in Table 17.1 to be the same as HSNO because the Committee does not accept that HSNO controls are designed to achieve the purpose of the RMA which seeks to manage the use, development, and protection of natural and physical resources in a way, or at a rate, which enables people and communities to provide for their social, economic, and cultural wellbeing and for their health and safety.
- (v) The Committee believes that it reasonable that Other Liquefiable Flammable Gases are provided for, and that 50kg in all zones, excluding Residential Zones and activities, is an appropriate level.
- (v) The Committee acknowledges that an increased threshold of total storage quantity of LPG to 600kg within the Group 6: Port Zones will reflect what is currently occurring on the ground within the hazardous sub-facilities of this zone.
- (vi) The Committee recognises that the University of Otago are a predominant occupier of the Campus Zone. The Committee acknowledges that they are a responsible user of hazardous substances and all hazardous substances under their control are closely monitored. The reasons given for the proposed increases are considered valid and will enable the University to continue their reasonable everyday operations.
- (vii) The Committee considers that a zero threshold of Acetylene Class 2.1.1A is too low and does not provide for small users of this substance. The Committee believes that a threshold of 1kg would be tolerable without compromising public safety. The Committee are satisfied that while vehicles (such as work vans) are not regulated by the District Plan, they will have to comply with strict Department of Labour regulations.
- (viii) The Committee notes that no other submissions were received in relation to the changes proposed for Table 17.1- Class 2 thresholds as notified.

6.12 TABLE 17.1 – CLASS 3 THRESHOLDS

Submitter	Decision Sought	Further Submission
Wanita Forest Products (PC-13-28)	That the proposed thresholds for Petrol 3.1A and Diesel 3.1D be supported.	
Mr Tony Parata (PC-13-30/d)	That there should be no District Plan controls relating to above ground fuel storage in the Rural Zone, because this is covered more than adequately by the HSNO Approved Practice Guide Safe Above Ground Storage on Farms.	Federated Farmers of New Zealand (FS-1) and Horticulture New Zealand (FS-3) supports this submission.
Chemsafety Limited (PC-13-41/g)	That the plan be amended to ensure consistency between the thresholds for Classes 3.1B and 3.1C.	Mercy Hospital Dunedin Limited (FS-2) and Horticulture New Zealand (FS-3) supports this submission in part.

Decision PC-13/6.17

The Committee's decision is to:

- (iii) **accept in part** the submission of **Chemsafety Limited (PC-13-41/k)** and the further submissions of **Mercy Hospital (FS-2)** and **Horticulture New Zealand (FS-3)** that the wording relating to Class 9.4A-C be reconsidered. In consequence, it is recommended that the Ecotoxics section of Table 17.1 as notified be deleted, and that the section be rewritten as follows (additions underlined):

Exotoxics/9.1A-D Aquatic ecotoxics, 9.2A-D Soil ecotoxics, 9.3A-C Terrestrial vertebrate ecotoxics, 9.4A-C Terrestrial invertebrate ecotoxics/All

See base or primary Class thresholds.

NB- Where a substance requires resource consent and also has an ecotoxics class, the ecotoxicity shall be taken into consideration as part of Assessment Matter 17.6.8.

- (iv) **accept** all other changes to Table 17.1: Class 9 Thresholds as notified.

Reasons for Decision

- (i) The Committee accepts that where a hazardous substance is subject to a Class 9 classification, it is also subject to one or more other substance classes. As such, the Committee believes that the thresholds set out for Class 9 substances were largely duplication and, as such, it is considered appropriate to remove the Class 9 thresholds and refer back to the base or primary class threshold. Where a hazardous substance requires resource consent because it breaches the base or primary class permitted activity thresholds, and is also meets a Class 9 classification, ecotoxicity shall be an assessment matter when considering any application for resource consent.
- (ii) The Committee notes that the base or primary class of a substance is the first classification listed beside any substance within New Zealand Gazette Notice No. 35, as well as on all HSNO required labelling and signage and that plan users should be advised of this.
- (iii) The Committee notes that no other submissions were received in relation to the changes proposed for Table 17.1- Class 9 thresholds as notified.

6.18 RULE 17.5.2 – CONTROLLED ACTIVITIES

Submitter	Decision Sought
LPG Association of New Zealand (PC-13-33/c)	That Rule 17.5.2(i)(b) be deleted

Discussion

The **LPG Association of New Zealand (PC-13-33/c)** notes that under proposed Plan Change 13 any person wishing to store LPG in a 222kg cylinder will need resource consent. They note that the application would be assessed as a controlled activity, which must be granted but may be subject to conditions. The **LPG Association of New Zealand** believes that the matters to which the Council will limit its discretion are taken from the Hazardous Substances (Classes 1-5 Controls) Regulations 2001 and AS/NZS 1596:2008 "The Storage and Handling of LP Gas" and as such believes that this represents a duplication of process and will result in increased costs for consumers.

No other submissions were received in relation to the changes to the Rule 17.5.2 – Controlled Activities as notified.

Decision PC-13/6.18

- (i) **reject** the submission from the **LPG Association of New Zealand (PC-13-33/c)** that Rule 17.5.2(i)(b) be deleted.
- (ii) **accept** all other changes to Rule 17.5.2 – Controlled Activities as notified.

Reason for Decision

- (i) The Committee accepts that when assessing applications of this type, the proposed rule will allow Council to have regard to the 4th schedule of the Resource Management Act 1991, in addition to those assessment matters taken from the HSNO Regulations and the New Zealand Standard. The Committee considers that these assessment matters will enable Council to insist on increased mitigation and containment requirements when located in sensitive areas.
- (ii) The Committee notes that no other submissions were received in relation to the changes proposed for Rule 17.5.2 – Controlled Activities as notified.

6.19 RULE 17.5.3 – DISCRETIONARY ACTIVITIES (RESTRICTED)

Submitter	Decision Sought
Port Otago Limited (PC-13-35/g)	That Rule 17.5.3 be amended.

Discussion

Port Otago (PC-13-35/g) requested that, where hazardous substances are stored, used or disposed of in the Port 1 Zone in a way that does not comply with the Permitted Activity rules (proposed by the submitter in submission **PC-13-35/d**), resource consent for a discretionary (restricted) activity should be required under Rule 17.5.3. As per the decision PC13/6.7 regarding User Note (9), disposal is regulated by the regional council and HSNO regulations. Upon speaking to their submission, **Port Otago** tabled proposed changes to Rule 17.5.3(ii) which was accepted by the Committee.

No other submissions were received in relation to the changes to the Rule 17.5.3 – Discretionary Activities (Restricted) as notified.

Annexure C

List of those persons to be served a copy of this appeal

**LIST OF PARTIES TO BE SERVED A COPY
OF THIS APPEAL**

Dunedin City Council
Attn Paul Freeland/Kirstyn Lindsay
Po Box 5045
Dunedin

Mr Scott Kunac
Allan Millar's
Hunting & Fishing
52 Tirohanga Road
RD 2
Mosgiel 9092

Mr Glen Miller
5 Canberra Place
Waldronville
Dunedin 9018

Mr David Holdsworth
35 Greenacres Street
Macandrew Bay
Dunedin 9014

Mr Lindsay Strong
29 Church Street
Mosgiel 9024

Mr Stewart Bayne
Antique Arms
Association Otago Branch
68 Skibo Street
Kew
Dunedin 9012

Mr Philip Cregeen
New Zealand Antique & Historical Arms
Association Inc.
57A Riverside Drive Riverside
Whangarei 0112

Mrs Joanne Bayne
Antique Arms Association Otago Branch
68 Skibo Street
Kew
Dunedin 9012

Mr Ross Dungey
109 Benhar Road
RD 2
Balclutha 9272

Dr John Osborne
PO Box 52
Kaitaia 0441

Mr John Fooks
Dunedin Clay Target Club Inc
20A Brighton Road
Green Island Dunedin 9018

Mr Chaz Forsyth
70 Evans Street
Opoho
Dunedin 9010

Mr Tim Cleminson
Dunedin Clay Target Club Inc
PO Box 2001 South
Dunedin
Dunedin 9044

Mr Selwyn Smith
10 Buckingham
Street
Dunedin 9016

Ms Dianne Brown
New Zealand Deer Stalkers' Association
Incorporated
PO Box 6514
Marion Square
Wellington 6141

Mr Paul Clark
New Council of Licensed Firearms Owners
Incorporated (COLFO)
PO Box 24020
Manners Street
Wellington 6142

Ms Adrienne Sears
New Zealand Clay Target Association Inc.
PO Box 5355
Papanui
Christchurch 8542

Mr Stuart Hayman
New Zealand Service Rifle Association Inc
PO Box 12450 Penrose Auckland 1642

Otago-Southland Firearm Owners Coalition
C/O Chaz Forsyth
Otago-Southland Firearm Owners Coalition
70 Evans Street
Opoho
Dunedin 9010

Bruce Rifle Club (Inc)
C/O Chaz Forsyth
Bruce Rifle Club (Inc)
70 Evans Street
Opoho
Dunedin 9010

Dr Lech Beltowski
Sporting Shooters Association of NZ (SSANZ)
PO Box 41013 St Lukes
Auckland 1346

Mr Andrew Keene
28C Maitland Street
Dunedin 9016

Mr Jay MacLean
469 Henley Road
RD 1
Outram 9073

Mr Simon Van
Westoby
7 Maryhill Terrace
Mornington
Dunedin 9011

Mr Paul Horsman
Otago Branch (Inc) New Zealand Deerstalkers'
Association
PO Box 701
Dunedin 9054

Mr Evan Johnston
14 Shand Street
Green Island
Dunedin 9018

Mr Steve Kilby
5 Heenan Road
RD 1
Outram 9073

Ms Ellen Kilby
5 Heenan Road
RD 1
Outram 9073

Mr Alec Cassie
Wenita Forest Products
PO Box 341
Mosgiel 9053

Mr Barry Mackay
Attn Katrina Roos
Property Services
University of Otago
PO Box 56
Dunedin 9054

Mr Tony Parata
1113 Coast Road
RD 1
Waikouaiti 9471

Mercy Hospital Dunedin Limited
Attn Joanne Dowd
Mercy Hospital Dunedin Limited
C/O Mitchell Partnerships Limited
PO Box 489
Dunedin 9054

Mr Chris Keenan
Horticulture New Zealand
PO Box 10232
The Terrace
Wellington 6143

Ms Joanna Pollard
PO Box 35
Outram 9062

Mr Lincoln Coe
Port Otago Limited
PO Box 8
Port Chalmers 9050

Mr Greg Sneath
New Zealand Fertiliser Manufacturers
Research Association Incorporated
PO Box 11519
Manners Street
Central Wellington 6142

Mr Grant Anderson
Holcim (New Zealand) Limited
PO Box 6040 Upper
Riccarton
Christchurch 8442

Mr Kevin Thompson
Downer EDI Works Limited
133 Main South Road
Green Island
Dunedin

Mr Murray Mackenzie
Ravensdown
PO Box 16081
Hornby
Christchurch 8441

PC-13-40 Ms Laura Marra
TrustPower Limited
Private Bag 12023
Tauranga Mail Centre
Tauranga 3143

Ms Janet Connochie
Chemsafety Limited
PO Box 8141
Christchurch 8440

Mr Jonathan Green
Fulton Hogan Limited
Private Bag 11900
Ellerslie
Auckland 1542

Kim Reilly
Federated Farmers of New Zealand
PO Box 5242
Moray Place
Dunedin 9058

Ministry for the Environment
Attn: HSNO Team
PO Box 10362
Wellington 6143

EPA
Attn: HSNO Team
PO Box 131
Wellington 6140