

Dunedin City District Plan  
**DISTRICT PLAN CHANGE 13**  
**Hazardous Substances**

Decision Incorporating Submissions

7 July 2012

## 1.0 INTRODUCTION

The management of hazardous substances in New Zealand is achieved mainly through the Hazardous Substances and New Organisms Act 1996 (HSNO) and the Resource Management Act 1991 (RMA). HSNO and its associated regulations set minimum performance standards for all hazardous substances, which apply regardless of circumstances such as activity, location and quantity. The HSNO standards govern the following matters:

- Containment
- Packaging
- Identification/Labelling
- Tracking
- Competency of Handling
- Emergency Management Requirements
- Disposal

The RMA controls, on the other hand, address those aspects of hazardous substances management associated with a particular location or land use. Under Section 31 (1), (b) (ii) of the RMA, territorial authorities have the following function:

*(b) the control of any actual or potential effects of the use, development, or protection of land, including for the purpose of...*

*(ii) the prevention or mitigation of any adverse effects of the storage, use, disposal, or transportation of hazardous substances.*

The two Acts work together. HSNO provides the framework for managing hazardous substances anywhere in New Zealand, and the RMA provides additional controls for managing activities involving hazardous substances at particular sites. District Plan provisions for hazardous facilities are created under the RMA, but also need to be compatible with HSNO.

Forty-three submissions were received on Plan Change 13. Five further submissions were received in response to these submissions. Of the forty-three primary submissions, one supports the plan change, and forty-two seek amendments to the plan change. All five further submissions support changes to the proposed plan change.

The submissions raise a range of matters in relation to the proposed plan change. Overall, there is broad support for the hazardous substances classifications to align with those contained in HSNO, however the majority of submissions questioned either the substance thresholds proposed or the need to control certain substances and activities which were already governed by New Zealand Standards or other legislation.

## 2.0 HEARING

The hearing on Plan Change 13 took place on 22, 23 and 24 June 2012. Councillor Colin Weatherall (Chair), Councillor Andrew Noone and Councillor Kate Wilson formed the Hearing Committee. Council staff in attendance were Mr Paul Freeland (Senior Planner-Policy), Mrs Kirstyn Lindsay (Planner-Policy), Mr Peter Woods (RMA/HSNO Compliance Officer) and Ms Jenny Lapham (Governance Support Officer).

Mr Rex Alexander of Envirocom Limited (Council's Technical Adviser) was also in

attendance. Mr Alexander attended to provide information and expert advice on HSNO controls and regulations and the proposed threshold limits of hazardous substances.

Submitters present at the hearing were Mr Tony Parata, Mr Paul Clark (representing the Coalition of Licenced Firearms Owners Inc.), Mr Lindsay Strong, Mr Simon Westoby, Mr Chaz Forsyth (representing Otago-Southland Firearm Owners Coalition and Bruce Rifle Club Inc, Ms Kim Reilly (representing Federated Farmers of NZ Inc), Mr Peter Gibert and Ms Claire Hunter (representing the LPG Association of NZ), Ms Joanne Dowd (representing Mercy Hospital (Dunedin) Limited), Mr Greg Sneath (representing The NZ Fertilisers Manufacturers' Research Association) and Mr Len Andersen, Mr Lincoln Coe and Ms Irene Clark (representing Port Otago Limited).

Two submitters being Ms Sonya Baird (representing TrustPower NZ Limited) and Mr Jonathan Green (representing Fulton Hogan Limited) tabled evidence to be considered at the hearing but did not attend.

Other submitters not in attendance were Mr Scott Kunac on behalf of Allan Millar's Hunting & Fishing, Mr Glen Miller, Mr David Holdsworth, Mr Stewart Bayne on behalf of Antique Arms Association Otago Branch, Mrs Joanne Bayne on behalf of Antique Arms Association Otago Branch, Mr Philip Cregeen on behalf of New Zealand Antique & Historical Arms Association Inc., Mr Ross Dungey, Dr John Osborne, Mr John Fooks on behalf of Dunedin Clay Target Club Inc, Mr Tim Cleminson on behalf of Dunedin Clay Target Club Inc, Mr Selwyn Smith, Ms Dianne Brown on behalf of New Zealand Deer Stalkers' Association Incorporated, Ms Adrienne Sears on behalf of New Zealand Clay Target Association Inc, Mr Stuart Hayman on behalf of New Zealand Service Rifle Association Inc, Dr Lech Beltowski on behalf of Sporting Shooters Association of NZ, Mr Andrew Keene, Mr Jay MacLean, Mr Paul Horsman, Dr Lech Beltowski on behalf of Otago Branch (Inc) New Zealand Deerstalkers' Association, Mr Evan Johnston, Mr Steve Kilby, Ms Ellen Kilby, Mr Alec Cassie on behalf of Wenita Forest Products, Mr Barry Mackay on behalf of University of Otago, Mr Chris Keenan on behalf of Horticulture New Zealand, Ms Joanna Pollard, Mr Grant Anderson on behalf of Holcim (New Zealand) Limited, Mr Kevin Thompson on behalf of Downer EDI Works Limited, Mr Murray Mackenzie on behalf of Ravensdown, and Ms Janet Connochie on behalf of Chemsafety Limited.

No procedural matters were raised and the Committee noted no comments were raised by any other party.

**Mr Rex Alexander** advised that in his role as a HSNO test certifier he had been actively involved with some of the submitters as part of the HSNO compliance process but did not believe that this compromised his professional ability to advise the Council. The Committee accepted Mr Alexander's declaration and believed that there was no conflict of interest.

**Mrs Lindsay** introduced the officer's report, giving a brief overview of the purpose and content of the plan change, the nature of the submissions received, and the recommended amendments to the plan change in response to submissions. She noted that this had addressed the concerns of some submitters who now no longer wish to be heard. **Mrs Lindsay** stated that she was comfortable that all proposed changes are able to be made without compromising public safety.

**Mrs Lindsay** noted that following the release of the agenda, a technical error was noted in that in response to submission PC-13-30/c in Section 6.7 of the report, there was no subsequent recommendation. The issues raised in the submission were also addressed in Recommendations 6.6 (ii), (iii) and (iv) and should have been repeated in Recommendation 6.7. She noted that omission did not change the overall recommendation of the report.

**Mrs Lindsay** also advised the Committee that part of submission PC-13-41/i was

misinterpreted and two distinct parts of the submission were combined where they should have been kept separate. While it did not significantly alter the recommendation, for completeness, she recommended that that Recommendation 6.14 (iii) in the s42A report should have the words 'such as hydrochloric acid' removed.

When questioned by the Committee regarding the pre-notification consultation and notably the assertion by **Mercy Hospital (Dunedin) Limited** (Mercy Hospital) that they were not consulted, Mrs Lindsay tabled a letter addressed to **Mercy Hospital**, dated 14 June 2011, seeking feedback prior to public notification on 6 September 2011.

**Mrs Lindsay** commented that in preparation of the proposed plan change, a number of other District Plans were assessed and she noted that many use the Hazardous Facilities Screening Procedure as their preferred method. **Mrs Lindsay** found this method to be complicated, confusing and uncertain. Overall, **Mrs Lindsay** was comfortable that Plan Change 13 was a practical plan change and able to be clearly understood and implemented by plan users.

**Mr Alexander** provided an overview of the Hazardous Facilities Screening Procedure for the benefit of the Committee.

### **Submissions heard**

**Mr Tony Parata** spoke to his submission regarding what he believed to be a duplication of controls between the RMA and HSNO. He noted that S142 of the HSNO Act provided for Council to impose more stringent controls on hazardous substances where these were deemed necessary but only in as far as it served the purpose of the RMA. **Mr Parata** believed that HSNO and its regulations adequately addressed the purpose of the RMA and further controls in the District Plan were unnecessary. **Mr Parata** suggested that the thresholds set out in Table 17.1 would preclude the storage and use of everyday hazardous substances such as dishwasher detergent or household bleach from being used. **Mr Parata** suggested that using the most stringent classification to assess the threshold limit of substances was unduly restrictive. **Mr Parata** sought the removal of Rule 17.5.1 and reference to 'health' and 'injury' within the Issues and Objectives Section of the proposed plan change.

**Mr Paul Clark** representing the Coalition of Licenced Firearms Owners Incorporated spoke to his submission regarding ammunition and amount that can be held under the proposed thresholds set out in Table 17.1. He advised the Committee that Police would be exempt from the thresholds. **Mrs Lindsay** confirmed that the Police have existing use rights pursuant to s10 of the RMA and, as such, would not require resource consent. **Mr Clark** stressed how safe safety ammunition was. **Mr Clark** was concerned that under the proposed plan change shops who often brought in large quantities of ammunition would be disadvantaged under the proposed thresholds. **Mrs Lindsay** confirmed that each of the sporting goods stores in Dunedin had been consulted and either were operating under s10 of the RMA or held resource consents. When questioned, Mr Clark stated that he would like to see a threshold limit of 50kg of Nett Explosive Quantity (NEQ) as this would cater for the specialist ammunition holder.

**Ms Kim Reilly** representing Federated Farmers of NZ Incorporated read from her written evidence which supported the recommendations with regard to the amendments proposed for permitted activity Rule 17.5.1 ((iii), (iv) and (v) as outlined in the s42A report.

**Mr Lindsay Strong** advised that his original concern was NEQ threshold limits set for Class 1.1A, 1.3C and 1.4S explosives were to be lower than those set by HSNO. When asked by the Committee, if the changes proposed in the s42A report would address his concerns, Mr Strong agreed that the amended threshold limits were acceptable.

**Mr Simon Westoby** circulated spent large calibre cartridge shells to the committee and

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.

**NZ Fertiliser Manufactures' Research Association** (NZ Fert) represented by:

**Mr Greg Sneath**, who spoke to his tabled evidence. **Mr Sneath** supported the amendments set out in the S42A report in respect of the permitted activity rule which allowed the storage and use of fertiliser within the Group 4: Rural Zone in accordance with the Fertiliser (Subsidiary Hazard) Group Standard and Fert Research's Code Of Practice for Nutrient Management 2007. **Mr Sneath** noted that while most fertiliser products fall within the above group standard he considered that the permitted activity should be in accordance within all fertiliser Group Standards being:

- Corrosive HSR002569
- Oxidising [5.1.1] HSR002570
- Subsidiary Hazard HSR002571
- Toxic [6.1C] HSR002572

**Port Otago Limited** (Port Otago) represented by:

**Mr Len Andersen** who spoke to his tabled evidence. Prior to **Mr Andersen** beginning his presentation, **Mr Alexander** advised the Committee that he was a test certifier for a number of companies and had recently been contracted by the **Port** in that role. The Committee, with agreement from the **Port**, believed this was not a conflict of interest.

**Mr Andersen** outlined the purpose of both the HSNO and RMA. He provided accepted definitions of transit depot and hazardous substance locations as defined in HSNO. **Mr Andersen** argued that there was nowhere in the city where hazardous substances were allowed to be stored as of right and believed that the Port 2 zone would be an appropriate area to be used for this purpose. He noted that the nature of the **Port's** operation was such that often hazardous goods arrived on short notice and that obtaining resource consent was not practical in such a tight timeframe. **Mr Andersen** also requested that the storage and use of hazardous substance in the Port 1 zone be a discretionary (restricted) activity and listed the matters to which Council's discretion should be restricted.

**Mr Lincoln Coe**, spoke to his written evidence. In his role, Mr Coe is responsible for all infrastructure, engineering, port development, maintenance, asset management and consenting and environmental matters. Mr Coe was pleased that, in respect of the Port 1 zone and the **Port's** operation, much progress had been made since the Plan Change had been notified. He gave a general overview of the port and transportation within Dunedin City. Mr Coe outlined the **Port's** compliance with HSNO regulations and discussed specific provisions of the proposed plan in respect of the Port 1 and 2 Zones and transport and transit where the **Port** felt the proposed plan provisions have the potential to restrict their operations.

**Ms Irene Clarke**, spoke to her written evidence. **Ms Clarke** focussed on five key points in her evidence including the principle that the District Plan approach in management hazardous substances should be complementary not duplicative to HSNO, specific provisions for the storage and transit of hazardous substances, sub-facilities within the Port 2 Zone, appropriate thresholds in table 17.1 and discretionary (restricted) status for non-complying activities within the Port zones. **Ms Clarke** questioned the S32 analysis undertaken for the Plan Change and considers that there is little justification for the proposed thresholds within the Port Zones. **Ms Clarke** tabled proposed amendments to the permitted activity rules as they relate to the Port Zones and suggested changes to the discretionary (restricted) rule 17.5.3.

### **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



or not. She noted that **Mercy Hospital** seeks to either change the entire threshold limit for the Group1: Residential zone to accommodate their operational needs or seek to have non-residential limits apply to them. **Mrs Lindsay** advised the Committee that she was exceedingly uncomfortable with amending the entire Group1: Residential zone thresholds to address the needs of one non-residential user and could not support this approach.

In respect of non-residential limits requested by **Mercy Hospital**, there was a suggestion that they could be accommodated within the Group 3: Campus zone as this is where the thresholds for Dunedin Public Hospital are set. However, after testing all of the thresholds which apply to the Group 3 zone, both **Mrs Lindsay** and **Mr Alexander** were uncomfortable with these limits applying to the **Mercy Hospital** site.

Ultimately, **Mrs Lindsay** accepted that their activity is an exception within this zone. However, **Mrs Lindsay** stood behind her recommendation as per the s42A report and urged **Mercy Hospital** to address the zoning of the site as a whole. Notwithstanding the above recommendation, **Mrs Lindsay** accepted that the threshold for Oxygen - Class 5.1.2A Gases within the Group 1: Residential Zone would appear to be too low, for medical facilities in general to under take their day to day operations and, as such, she proposed that the same exemption which applies to Nitrous Oxide- Class 5.1.2A Gases be applied to Oxygen also.

Based on general discussion raised during **Mercy Hospital's** evidence regarding the zero threshold for Acetylene Class 2.1.1A within the Group 1: Residential Zone, **Mrs Lindsay** was comfortable with increasing the limit to 1m<sup>3</sup> of Acetylene for this zone. She noted that the intention is that within the Group 1 zone, Acetylene located within vehicles, regardless of whether they are stationary or not, is not intended to be restricted by this rule.

As a result of the submission of **Port Otago**, alterations to Rule 17.5.1 *Permitted Activities* have been suggested. **Mrs Lindsay** accepted that ultimately the intention was to enable hazardous substances to be:

- Moved (in transit) in the Port 1, Port 2 (excluding Harbourside) and Industrial 1 zones;
- Stored (excluding fixed installations) in the Port 1 and Port 2 zones; and
- Used in any zone subject to the thresholds detailed in Table 17.1

**Mrs Lindsay** acknowledged the proposed amendments tabled by **Port Otago** and considered that these may be workable with minor changes. She agreed that of all the zones within Dunedin, the Port 2 zone would be the most appropriate to provide for the storage of hazardous substances because of its limited area and adjacent zoning. **Mrs Lindsay** noted that it was not her intention that the use of hazardous substances should be included within these rules. In addition, she noted that because of the extent of Industrial 1 zoned land, and the sensitive land uses that can occupy nearby land in some locations, the relatively unconstrained storage of hazardous substances in the Industrial 1 zone could not be supported.

In respect of **Port Otago's** desire to amend Rule 17.5.3 - Discretionary (Restricted) as proposed in attachment 1 of **Ms Clark's** evidence, **Mrs Lindsay** considered this did not impose considerably greater restrictions on Council's ability to assess these activities and, as such, this proposed change is supported. In addition, she was supportive of the changes proposed to the definitions regarding Tracked and Non-Tracked substances as she believed this would add clarification.

In summary, **Mrs Lindsay** was satisfied that the majority of submitters are comfortable with the approach taken by the proposed Plan Change. She believed that the introduction of the amendments as suggested within the s42A report, and in the

commentary above, will ensure that the proposed plan change will provide for the day-to-day operational needs of many hazardous substance users without compromising public well-being. It was **Mrs Lindsay**'s opinion that the plan change was practical, pragmatic and relatively easy to understand and use when compared to some other district plans. **Mrs Lindsay** believed that in this plan change, the Council will achieve the purpose of s5 and will discharge their responsibilities under s31 and s35 of the Resource Management Act 1991.

### **Deliberations**

After consideration of the issues raised in submissions, in evidence tabled by submitters during the hearing, and those matters addressed in the Officer's right of reply, the Hearing Committee determined that the proposed changes be incorporated in the plan change for the reasons discussed in section 6.0 below.

## **3.0 DECISION OVERVIEW**

Overall, the Committee's decision is that Plan Change 13 be confirmed, subject to amendments. The Plan Change, as amended by the decisions set out in this report, is attached in Appendix A.

## **4.0 BACKGROUND**

### **4.1 Existing Provisions for Management of Hazardous Substances**

The District Plan Section 17 Hazards and Hazardous Substances controls for the management of activities involving hazardous substances were drafted in the early 1990s, before HSNO and its associated regulations had come fully into force. The District Plan rules set out various classes of hazardous substances, and the quantities beyond which resource consent is required for the storage, use or disposal of each class of substance. This section has now become outdated due to changes in national legislation introduced via the Hazardous Substances and New Organisms Act 1996 (HSNO) and its associated regulations. In many cases, the classes and quantities set out in the District Plan do not align with HSNO regulations, specifically the Hazardous Substances (Classification) Regulations 2001. In addition, other anomalies exist in the wording of District Plan provisions, and there are areas of duplication of control between HSNO and the District Plan.

In September 2011, the Dunedin City Council Planning and Environment Committee approved the preparation of a plan change to update Section 17 of the Dunedin City District Plan as it relates to the hazardous substances portion of the section which controls the storage, use, disposal and transportation of hazardous substances.

## 4.2 Consultation

Consultation was undertaken with interested and affected parties during the preparation of the plan change. Those consulted included:

- Dunedin City Council internal departments
- Oil companies
- Gas companies
- LPG Association
- Hunting supplies
- Spa pool retailers
- Large format retailers/hardware stores
- Trade shops
- Dunedin Public Hospital
- University of Otago
- Otago Polytechnic
- Port Otago Limited
- Chalmers Properties
- Otago Regional Council
- Planning consultants
- Fire Service
- Forestry companies
- Federated Farmers
- Research organisations
- GNS Science
- Mercy Hospital

## 4.3 Proposed District Plan Hazardous Substance Provisions

Proposed Plan Change 13 seeks to resolve the inconsistencies between the rules and associated assessment matters in Section 17: Hazards, Hazardous Substances and Earthworks of the District Plan and HSNO and seeks to set appropriate thresholds which are cognisant of surrounding land uses. Proposed Plan Change 13 reviews the relevant hazardous substances definitions in Section 3: Definitions. Apart from consequential wording changes in Section 10: Industry, no additional sections of the Plan will be directly affected by the proposed changes.

Specifically, Proposed Plan Change 13 addresses the following matters:

- Clarification of the relationship between the functions under the RMA and District Plan and the functions under HSNO and other relevant legislation.
- Includes classes of substances which align with HSNO.
- Applies limits on classes of substances as appropriate to each specific District Plan Zone.
- Cross-references rules with policies in the Hazardous Substances section.
- Review of rules in the Hazardous Substances section to ensure that the District plan is not inconsistent with HSNO.
- Provides for everyday use of specific quantities and types of hazardous substances as permitted activities.
- Separates assessment matters for hazardous substances from the general assessment matters currently listed in Section 17.6.
- Review of assessment matters listed in Section 17.6, to provide specifically for the management of hazardous substances after recognising limitations of individual sites and to incorporate those assessment matters set out in Rules 17.5.2 and 17.5.3.
- Review of the wording and insertions of definitions relating to Hazardous Substances to ensure the clarity of all rules.

Proposed Plan Change 13 has addressed these matters through:

- The addition of advisory notes to plan users to clarify the functioning of the section and to alert users to controls outside the District Plan that may be relevant; and
- Amendments to District Plan rules, and associated definitions and assessment matters.

The conclusion of the Section 32 evaluation is that, having regard to their efficiency and effectiveness, the proposed changes are the most appropriate means of achieving the existing objectives of District Plan Section 17: Hazards, Hazardous Substances and Earthworks.

#### **4.4 Recommendations of officer's report in response to submissions**

As part of the submission process a wide range of amendments was requested to the detail of proposed provisions. In response to these submissions the officer's s42A report recommended a number of changes to the plan change as notified. The key recommended changes were as follows:

- Amendments to Issue 17.1.6, Objective 17.2.2, Policy 17.3.8, Method 17.4.2, Permitted Activity Rules 17.5.1(i) and 17.5.1(x) and 17.5.2(iii) to remove reference to disposal of hazardous substances.
- Amendments to Policy 17.3.8 and Method 17.4.2 to require only consented activities to be included within a Hazardous Substance Register.
- Amendment to Method 17.4.5 to remove reference to ERMA and replace with EPA.
- Amendment to Rule 17.5.2(ii) to expand those permitted substances contained within motor vehicles, boats, aircraft and small engines
- Introduction of Permitted Activity Rules 17.5.1(iii),(iv),(v) to provide for the storage and use of fertiliser, agrichemical and above ground fuels storage in compliance with group Standards and codes of practice within the Group 4: rural zone.
- Introduction of Permitted Activity Rules 17.5.1(vi) to provide for the storage and use of transformer cooling oils within electricity transformers.
- Introduction of Permitted Activity Rules 17.5.1(vii), (viii), (ix) and (x) to provide for the transit and storage of hazardous substances within the Port 1, Port 2 and Industrial 1 zone.
- Relocation of Permitted Activity Rules 17.5.1(iv),(v),(vi) (vii) to User Notes (3), (4), (6) and (8) to assist with plan usability.
- Introduction of User Notes 5, 7, and 9 to assist with plan usability.
- Increase in thresholds for Class 1 explosives.
- Introduction of separate threshold for Sodium Azide Class 1.4S.
- Amendments to calculation for LPG Class 2.1.1A storage within Zone Groups 2-7.
- Increase to storage and use thresholds of LPG Class 2.1.1A, Liquid High Hazard Class 3.1.B and Petrol Class 3.1A plus 3.1B within the Group 6: Port Zone.
- Amendments to storage and use thresholds of Liquid High Hazard 3.1C within Zone Groups 2-7.
- Introduction of threshold for catering purposes of Nitrous Oxide Class 5.1.2A Gases within Group 2.
- Introduction of separate and increased thresholds for Cement, Hydrated Lime and Burnt Lime Classes 6.4A, 6.5A&B, 8.2A-C and 8.3A.

- Introduction of thresholds for Skin irritant Class 6.1D&E and 6.3A&B.
- Refer Ecotoxics Class 9 substance to primary class thresholds and require ecotoxicity to be included as a matter of assessment where Class 9 is triggered.
- Amendments to Table 17.1 to provide for liquid, gas and solid states where appropriate
- Provide for the Port 2 zone to be included within the hazardous sub-facility definition.

## 5.0 DISCUSSION OF FURTHER SUBMISSIONS

Under Clause 8 (1) of the First Schedule of the Act, the following persons may make further submissions:

- (a) *any person representing a relevant aspect of the public interest; and*
- (b) *any person that has an interest in the proposed policy statement or plan greater than the interest that the general public has; and*
- (c) *the local authority itself.*

Five further submissions were made on Plan Change 13. Taking into account the criteria set out in Clause 8 (1), it is considered that all further submitters qualify as persons who may make further submissions. Table 1 evaluates each submitter in the light of Clause 8 (1) and gives reasons in each case for the recommendation to accept their submission for consideration.

**Table 1: Consideration of further submissions under Clause 8(1)**

Submission no.	Further submitter	Recommend: accept/reject	Reasons
<b>PC-13-F1</b>	<b>Federated Farmers of New Zealand</b>	Accept	Clause 8 (1) (b): the submitter represents the interests of their members who are high users of agrichemicals, fertilisers and Class 3 fuels.
<b>PC-13-F2</b>	<b>Mercy Hospital Dunedin Limited</b>	Accept	Clause 8 (1) (b): the submitter operates a hospital and, as such, is a high user of hazardous substances.
<b>PC-13-F3</b>	<b>Horticulture New Zealand</b>	Accept	Clause 8 (1) (b): the submitter represents horticultural growers in Dunedin City. The use of agrichemicals and fertilisers are a key element of horticulture.
<b>PC-13-F4</b>	<b>Port Otago Limited</b>	Accept	Clause 8 (1) (b): the submitter operates a key transportation depot within Dunedin City who uses, stores and transports hazardous substances.
<b>PC-13-F5</b>	<b>TrustPower Limited</b>	Accept	Clauses 8 (1) (b): the submitter operates an important and strategic power scheme within Dunedin City which requires the use and storage of hazardous substances.

**Decision PC-13/5.0**

The Committee's decision is to:

- (i) accept all further submissions for consideration, in accordance with Clause 8 (1) of the First Schedule of the Resource Management Act 1991.

**Reasons for Decision**

- (i) It is considered that all further submitters qualify as persons who may make further submissions under Clause 8 (1) (a), for the reasons set out in Table 1.

## **6.0 DECISIONS ON SUBMISSIONS**

To facilitate the summary of submissions on this plan change and to ensure that decisions are made in relation to all issues raised in submissions, submissions have been grouped in relation to the specific part or provision of the plan change to which they relate. Where submissions have raised points that are relevant to a number of themes, these submission points have been discussed in relevant sections of the report. Submissions on plan change provisions will be considered in the following order:

- Whole of plan change
- Introduction
- 17.1: Significant Resource Management Issues
- 17.2: Objective
- 17.3: Policy
- 17.4: Methods
- Rule 17.5.1 Permitted Activities
- Table 17.1 – General
- Table 17.1 – Class 1 Thresholds
- Table 17.1 – Class 2 Thresholds
- Table 17.1 – Class 3 Thresholds
- Table 17.1 – Class 4 Thresholds
- Table 17.1 – Class 5 Thresholds
- Table 17.1 – Class 6 Thresholds
- Table 17.1 – Class 8 Thresholds
- Table 17.1 – Class 9 Thresholds
- Rule 17.5.2 Controlled Activities
- Rule 17.5.3 Discretionary Activities (Restricted)
- Rule 17.5.3 Discretionary Activities (Restricted)
- Assessment Matter 17.6.14
- Section 3: Definitions
- Section 10: Industry

## 6.1 WHOLE PLAN CHANGE

Submitter Name	Decision Sought	Further Submissions
<b>Mr Tony Parata (PC-13-30/a)</b>	That the use of thresholds/consents to regulate the storage and use of hazardous substances are opposed because there are now comprehensive HSNO controls.	<b>Federated Farmers of New Zealand (FS-1)</b> support this submission in part.
<b>Mercy Hospital Dunedin Limited (PC-13-31/a)</b>	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.	
<b>Horticulture New Zealand (PC-13-32/a)</b>	That the Plan Change is supported in that it seeks to ensure the District Plan is in line with the Hazardous Substances and New Organisms Act 1996 (HSNO) requirements.	
<b>Port Otago Limited (PC-13-35/a)</b>	<p>That the entire plan change be revised with greater reliance on the HSNO regime as a means of implementation.</p> <p>That all hazardous substances thresholds be removed from the District Plan and rely on HSNO Regulations (Group Standards) to manage generic effects.</p>	<p><b>Federated Farmers of New Zealand (FS-1)</b> support this submission in part.</p> <p><b>Horticulture New Zealand (FS-3)</b> support this submission.</p>
<b>Holcim (New Zealand) Limited (PC-13-37/a)</b>	<p>That the plan change is supported, as it contains clear provision for the protection of the environment from accidental spills or leakages, but that amendments are made to ensure that:</p> <ul style="list-style-type: none"> <li>• Unintended consequences do not arise through the adoption of the proposed plan change;</li> <li>• Perverse outcomes do not arise through the implementation of the proposed plan change;</li> <li>• The Port 2 Zone is recognised as an industrial area which holds or stores significant quantities of material;</li> <li>• Cement, Burnt Lime and Hydrated Lime are provided for within the Plan; and</li> <li>• The submitter's customers are not adversely affected by the proposed plan change.</li> </ul>	
<b>Downer EDi Works Limited (PC-13-38/a)</b>	That the plan change be generally supported (subject to amendments requested by the submitter), given its objective to better align the District Plan with HSNO.	<b>TrustPower Limited (FS-5)</b> supports this submission.
<b>TrustPower Limited (PC-13-40/a)</b>	<p>That the District Plan provisions be brought into line with the HSNO requirements.</p> <p>That the proposed changes to the District Plan do not impose restrictions that are more stringent than required by HSNO.</p> <p>That there is consistency between the threshold quantities in HSNO and the District Plan.</p> <p>That justification is provided on how the proposed District Plan thresholds were identified.</p>	<p><b>Federated Farmers of New Zealand (FS-1)</b> support this submission in part.</p> <p><b>Horticulture New Zealand (FS-3)</b> supports this submission.</p>

Submitter Name	Decision Sought	Further Submissions
<b>Chemsafety Limited (PC-13-41/a)</b>	That the Plan Change be supported as it seeks to ensure the District Plan is in line with the Hazardous Substances and New Organisms Act 1996 (HSNO) requirements.	<b>Mercy Hospital (FS-2)</b> supports this submission.
<b>Fulton Hogan Limited (PC-13-42)</b>	<p>That the Plan Change be supported in that it seeks to ensure the District Plan is in line with the Hazardous Substances and New Organisms Act 1996 (HSNO) requirements.</p> <p>That the plan change be withdrawn and rewritten to align with HSNO thresholds and re-notified.</p>	<p><b>Federated Farmers of New Zealand (FS-1)</b> support this submission in part.</p> <p><b>Horticulture New Zealand (FS-3)</b> support this submission.</p>

## Discussion

**Mr Tony Parata (PC-13-30/a)**, supported in part by **Federated Farmers of New Zealand (FS-1)**, believes that the introduction of the HSNO legislation implemented comprehensive controls and regulations relating to the storage use and disposal of hazardous substances, and as such he considers that the plan change results in a duplication of regulation and does not achieve the purpose of the RMA. **Mr Parata** believes that where industries or organisations are covered by approved codes of practice or guidelines there should be no further controls imposed by the District Plan unless it can be clearly demonstrated that additional controls are required for a particular site. **Mr Parata** noted that S142 of the HSNO Act provided for Council to impose more stringent controls on hazardous substances where these were deemed necessary but only in as far as it served the purposed of the RMA.

**Federated Farmers of New Zealand (FS-1)** in their further submission note that the HSNO Act and Regulations, Codes of Practice and quantity thresholds already provide an extensive framework of obligations, rules and guidance in this area. They consider that, where these requirements are being met, any Council plan should align with those in a permitted activity framework.

As determined in Section 6.8, permitted activity rules, which specify specific codes of practice and group standards within the Group 4: Rural zone, have been considered and will be discussed within that section.

**Port Otago (PC-13-35/a)**, supported in part by **Federated Farmers of New Zealand Limited (FS-1)** and in full by **Horticulture New Zealand (FS-3)**, considers that the entire plan change should be revised with greater reliance on the HSNO regime as a means of implementation. **Port Otago** considers that all hazardous substances thresholds should be removed from the District Plan and instead reliance should be placed on HSNO Regulations (Group Standards) to manage generic effects.

**Horticulture New Zealand (PC-13-32/a)** is generally supportive of the plan change, in as far as it seeks to ensure the District Plan is in line with the Hazardous Substances and New Organisms Act 1996 (HSNO) requirements, but seeks specific amendments to proposed provisions contained within the plan change (see submissions PC-13-32/b to 32/g discussed in subsequent sections of this report).

**Chemsafety Limited (PC-13-41/a)**, supported by **Mercy Hospital (FS-2)**, is also generally supportive of the proposed plan change but is concerned that some of the thresholds selected in Table 17.1 are inconsistent with the risks posed by those substances (see submissions PC-13-41/b to 41/k discussed in subsequent sections of this report). Similarly, **Downer EDi Works Limited (PC-13-38/a)**, supported by



**TrustPower Limited (FS-5)**, is generally supportive of the plan change, given its objective to better align the District Plan with HSNO, but seeks specific amendments to provisions to avoid duplication of control (see submission PC-13-38/b discussed in Section 6.8).

**Holcim (New Zealand) Limited (PC-13-37/a)** is generally supportive of the plan change, as it contains clear provision for the protection of the environment from accidental spills or leakages, but seeks amendments to the plan change to ensure that: unintended consequences and perverse outcomes do not arise through the adoption and implementation of the proposed plan change. Specifically, **Holcim** seeks that the Port 2 Zone is recognised as an industrial area which holds or stores significant quantities of material; cement, burnt lime and hydrated lime are provided for within the Plan; and **Holcim's** customers are not adversely affected by the proposed plan change (see submissions PC-13-37/b to 37/j discussed in subsequent sections of this report).

**Mercy Hospital (PC-13-31/a)** oppose the plan change as a whole. In their view, the thresholds set in proposed Table 17.1 are too low, are not clearly justified and would result in unnecessary resource consent requirements. **Mercy Hospital** considers that the proposed thresholds are significantly more stringent than the thresholds established under HSNO legislation, and that this will restrict the operation of the hospital should it undertake expansion which may cause it to lose its existing use rights.

**TrustPower Limited (PC-13-40/a)**, supported in part by **Federated Farmers of New Zealand (FS-1)** and in full by **Horticulture New Zealand (FS-3)**, also supports the aim of the plan change in seeking to ensure the District Plan is in line with HSNO requirements. However, **TrustPower** is concerned that the plan change seeks to impose more stringent restrictions than those put in place by HSNO. In **TrustPower's** view, there should be consistency between the threshold quantities in HSNO and the District Plan, and justification should be provided as to how the threshold limits were set, as Plan Change 13 does not appear to be consistent with HSNO limits.

The Committee acknowledges that TrustPower is a Requiring Authority and many of its sites are designated with no restricting conditions relating to hazardous substances. The Committee agrees that the proposed plan change has not addressed the storage and use of transmission cooling oils as well as it could have and to that end a permitted activity rule to allow the storage and use of these is considered (Section 6.8) in order to enable TrustPower to operate more effectively.

TrustPower's view is shared by **Fulton Hogan Limited (PC-13-42)** which, supported in part by **Federated Farmers of New Zealand (FS-1)** and in full by **Horticulture New Zealand (FS-3)**, considers that there are a number of inconsistencies between the proposed plan change, HSNO and the RMA. **Fulton Hogan Limited** requests that the plan change be withdrawn as Plan Change 13 does not mirror HSNO and the RMA. Evidence from Fulton Hogan tabled at the hearing stated that reassessment of the proposed plan change as detailed in the Section 42A report satisfied their concerns and they supported the proposed changes.

### Decision PC-13.6.1

The Committee's decision is to:

- (i) **accept in part** the submissions of **Horticulture New Zealand (PC-1332/a)**, **Chemsafety Limited (PC-13-41/a)**, **Downer Edi Works Limited (PC-13-38/a)**, **Fulton Hogan Limited (PC-13-42)** and **TrustPower Limited (PC-13-40/a)** and the further submissions of **Federated Farmers of New Zealand (FS-1)**, **Mercy Hospital (FS-2)**, **Horticulture New Zealand (FS-3)** and **TrustPower Limited (FS-5)** in that they support the alignment of hazardous substance classifications in the District Plan with HSNO.
- (ii) **accept in part** the submission of **Holcim (New Zealand) Limited (PC-13-37/a)** in that it is generally supportive of the plan change, as it contains clear provision for the protection of the environment from accidental spills or leakages.
- (iii) **reject in part** the submission of **Fulton Hogan Limited (PC-13-42)** and the further submissions of **Federated Farmers of New Zealand (FS-1)** and **Horticulture New Zealand (FS-3)**, that the plan change be withdrawn as it does not mirror HSNO and the RMA.
- (iv) **reject** the submissions of **Mr Tony Parata (PC-13-30/a)**, and **Port Otago (PC-13-35/a)** and **reject in part** the further submissions of **Federated Farmers of New Zealand (FS-1)** and **Horticulture New Zealand (FS-3)** in that they oppose the use of thresholds in the District Plan to regulate the storage and use of hazardous substances, because there are now comprehensive HSNO controls.
- (v) **reject** the submission of **TrustPower Limited (PC-13-40/a)**, and **Mercy Hospital (PC-13-31/a)** and the further submissions of **Federated Farmers of New Zealand (FS-1)** and **Horticulture New Zealand (FS-3)** that the proposed changes to the District Plan should not impose restrictions that are more stringent than required by the HSNO standards and that there should be consistency between the quantities that trigger threshold quantities under HSNO and the limits for the permitted activities in the proposed plan change.
- (vi) **accept in part** the submissions of **Mercy Hospital (PC-13-31/a)** and **TrustPower Limited (PC-13-40/a)** and the further submission of **Federated Farmers of New Zealand (FS-1)** and **Horticulture New Zealand (FS-3)** that justification be provided as to how the permitted quantity limits were identified.

### Reasons for Decision

- (i) Interested and affected parties have been comprehensively consulted on proposed Plan Change 13, whether prior to public notification or via the submission process, and have been given the opportunity to provide input into the plan change before it takes legal effect.
- (ii) The Committee's decision as set out in this report makes amendments to the plan change as notified, in response to submissions, and to evidence tabled at the hearing.
- (iii) The Committee considers that all further submitters qualify as persons who may make further submissions under Clause 8 (1) (a), for the reasons set out in Table 1.
- (iv) The Committee agrees that the classifications used by the current District Plan have been disestablished and are therefore unworkable. It is appropriate that the classifications become aligned with HSNO, for consistency and so that a set of workable, enforceable hazardous substance controls are put in place.

## Reasons for Decision

- (v) The Committee acknowledges that certain thresholds contained in the plan change as notified were too restrictive. This report recommends that these thresholds be amended in response to submissions. See Sections 6.6 to 6.17 of this report for details of recommended changes to Rule 17.5.1 and Table 17.1.
- (vi) 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. HSNO and RMA legislation are designed to work together; where the HSNO Act sets controls on a national level in recognition of the inherent hazard of certain substances, the RMA controls are set through the local planning process so that differences in the sensitivity of the local environment and community needs can be taken into account. However, the Committee acknowledges that there is an overlap between the two pieces of legislation, and for that reason alone believe that it is best to use them both in a coordinated manner rather than rely on one in isolation of the other.
- (vii) The Committee considers that S31(1)(b)(ii) of the RMA imposes a responsibility on the Council to prevent or mitigate any adverse effects of the storage, use, disposal or transportation of hazardous substances, while s35 of the RMA places 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. As such, the Committee has every confidence that controlling the effects of hazardous substances is a function of the Council.
- (viii) The Committee has listened to the points made by submitters regarding s142 of HSNO which provides for site-specific controls to be applied under the RMA. The Committee believes that the District Plan may choose to place greater controls on hazardous substances in sensitive areas because of the unacceptable risk these substances pose to people and the environment. Within Dunedin a broad-brush zoning approach is taken, whereby, the land use undertaken in residential zones is treated as more environmentally sensitive. The Committee considers that within more sensitive zones, stricter controls than those permitted by HSNO are deemed appropriate. In less sensitive areas, the Committee is satisfied that threshold limits can be increased without compromising public safety.
- (ix) The Committee are satisfied that the majority of submitters are comfortable with the approach taken by the proposed Plan Change and that it will accommodate the day-to-day operational needs of many hazardous substance users without compromising public wellbeing. The Committee consider that the proposed plan change is practical, pragmatic and easy to understand and use.
- (x) The Committee is content that the proposed plan change will achieve the purpose of s5 of the RMA.

## 6.2 INTRODUCTION TO SECTION 17 HAZARDS, HAZARDOUS SUBSTANCES AND EARTHWORKS

Submitter Name	Decision Sought	Further Submissions
<b>Mr Tony Parata (PC-13-30/b)</b>	That the disposal of hazardous substances including wastes is not a permitted activity.	<b>Horticulture New Zealand (FS-3)</b> opposes this submission in part.

### Discussion

As noted above, Mr Tony Parata is concerned that the disposal of hazardous substances including wastes is proposed to be a permitted activity and believes that the disposal of any such substance should be restricted to appropriate facilities. **Horticulture New Zealand (FS-3)** opposes this submission as **Horticulture New Zealand** does not wish resource consent to be required for the disposal of wastes. As such, the Committee accept that the reference to disposal should be removed from the introduction of section 17. No other submissions were received in relation to the change to the introduction as notified.

### Decision PC-13-6.2

It is the Committee's decision to:

- (i) **accept** the submission of **Mr Tony Parata (PC-13-30-b)** that the disposal of hazardous substances including wastes is not a permitted activity in that the reference to disposal is removed from the introduction (deletions ~~scored out~~, additions underlined):

*Hazardous Substances and their storage, use, ~~disposal~~ or transport are potential threats to the health and safety of the City's people and to the environment.*

- (ii) **accept** the further submission of **Horticulture New Zealand (FS-3)** that the disposal of hazardous substances including wastes does not require resource consent under the Dunedin City District Plan in that the reference to disposal is removed from the introduction (deletions ~~scored out~~, additions underlined):

*Hazardous Substances and their storage, use, ~~disposal~~ or transport are potential threats to the health and safety of the City's people and to the environment.*

- (iii) **accept** all other changes to the introduction as notified.

### Reasons for Decision

- (i) The Committee accepts that hazardous substances are required by HSNO to be disposed of to an appropriate disposal facility and the Committee is satisfied that this control along with the relevant requirements set out in the Regional Plans: Waste, Water and Air will provide for the adequate management of hazardous substance disposal without controls introduced in the District Plan. The Committee therefore considers that the District Plan should neither require resource consent for hazardous substance disposal nor provide for such disposal as a permitted activity; instead, a note should be added to the Plan referring users to the HSNO and Regional Plans: Waste, Water and Air controls and, as such, reference to *disposal* should be removed from Introduction to Section 17 Hazards, Hazardous Substances.
- (ii) The Committee notes that no other submission were received in relation to the changes proposed for Introduction of Section 17: Hazards, Hazardous Substances.

### 6.3 17.1: SIGNIFICANT RESOURCE MANAGEMENT ISSUES

Submitter	Decision Sought	Further Submission
Mr Tony Parata (PC-13-30/a)	That the use of thresholds/consents to regulate the storage and use of hazardous substances are opposed because there are now comprehensive HSNO controls.	
Mr Tony Parata (PC-13-30/b)	That the disposal of hazardous substances including wastes is not a permitted activity.	Horticulture New Zealand (FS-3) opposes this submission in part.

### Discussion

As noted in the sections above, **Mr Tony Parata** is concerned that the disposal of hazardous substances including wastes is proposed to be a permitted activity and believes that the disposal of any such substance should be restricted to appropriate facilities. **Horticulture New Zealand (FS-3)** opposes this submission as **Horticulture New Zealand** does not wish resource consent to be required for the disposal of wastes. **Mr Parata** when speaking to his submission **(PC-13-30/a)** considered that the reference to health should be removed from the explanation of Issue 17.1.6 as he considers this is not relevant to the purpose of the RMA and therefore the District Plan and is addressed by HSNO. No other submissions were received in relation the changes to the 17.1: Significant Resource Management Issues as notified.

### Decision PC-13-6.3

It is the Committee's decision to:

- (i) **reject in part** the submission **Mr Tony Parata (PC-13-30-a)** that the reference to health be removed from the explanation of Issue 17.1.6.

### Decision PC-13-6.3

It is the Committee's decision to:

- (ii) **accept** the submission of **Mr Tony Parata (PC-13-30-b)** that the disposal of hazardous substances including wastes is not a permitted activity in that the reference to disposal is removed from Issue 17.1.6. (deletions ~~scored-out~~, additions underlined):

*The storage, use and transportation ~~and disposal~~ of hazardous substance have the potential for adverse effects on the environment*

- (iii) **accept** the further submission of **Horticulture New Zealand (FS-3)** that the disposal of hazardous substances including wastes does not require resource consent under the Dunedin City District Plan in that the reference to disposal is removed from Issue 17.1.6. (deletions ~~scored-out~~, additions underlined):

*The storage, use and transportation ~~and disposal~~ of hazardous substance have the potential for adverse effects on the environment*

- (iv) **accept** all other changes to 17.1: Significant Resource Management Issues as notified.

### Reasons for Decision

- (i) The Committee notes that the purpose of the RMA as recorded in Section 5 states:

*5(2) In this Act, sustainable management means managing 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...*

- (ii) The Committee are confident that ensuring the community's health and safety falls within Council's area of responsibility and as such it is appropriate to retain the word *health* within the explanation for Issue 17.6.

- (iii) The Committee accepts that hazardous substances are required by HSNO to be disposed of to an appropriate disposal facility and the District Plan is satisfied that this control along with the relevant requirements set out in the Regional Plans: Waste, Water and Air will provide for the adequate management of hazardous substance disposal without controls introduced in the District Plan. The Committee therefore considers that the District Plan should neither require resource consent for hazardous substance disposal nor provide for such disposal as a permitted activity; instead, a note should be added to the Plan referring users to the HSNO and Regional Plans: Waste, Water and Air controls and, as such, reference to disposal should be removed for Objective 17.2.2.

- (iv) The Committee notes that no other submissions were received in relation to the changes proposed for 17.1: Significant Resource Management Issues as notified.

## 6.4 17.2: OBJECTIVES

Submitter	Decision Sought	Further Submission
<b>TrustPower Limited (PC-13-40/b)</b>	That Objective 17.2.2 and the change to the associated explanation are supported.	<b>Horticulture New Zealand (FS-3)</b> supports the submission.
<b>Horticulture New Zealand (PC-13-32/b)</b>	That Objective 17.2.2 and the change to the associated explanation are supported.	
<b>Mr Tony Parata (PC-13-30/a)</b>	That the use of thresholds/consents to regulate the storage and use of hazardous substances are opposed because there are now comprehensive HSNO controls.	
<b>Mr Tony Parata (PC-13-30/b)</b>	That the disposal of hazardous substances including wastes is not a permitted activity.	<b>Horticulture New Zealand (FS-3)</b> opposes this submission in part.

### Discussion

**TrustPower Limited (PC-13-40/b)** and **Horticulture New Zealand (PC-13-32/b)** and **FS-3** seek the retention of Objective 17.2.2 and support the changes to the wording of the associated explanation as it relates to hazardous wastes.

As noted in the sections above, **Mr Tony Parata** is concerned that the disposal of hazardous substances including wastes is proposed to be a permitted activity and believes that the disposal of any such substance should be restricted to appropriate facilities. **Horticulture New Zealand (FS-3)** opposes this submission as **Horticulture New Zealand** does not wish resource consent to be required for the disposal of wastes.

**Mr Parata** when speaking to his submission **(PC-13-30/a)** considered that the reference to injury should be removed from the explanation of Objective 17.2.2 as he considers this is not relevant to the purpose of the RMA and, therefore, the District Plan and is addressed by HSNO. No other submissions were received in relation to the changes to the 17.2: Objectives as notified.

### Decision PC-13-6.4

It is the Committee's decision to:

- (i) **accept in part** the submissions of **TrustPower Limited (PC-13-40/b)** and **Horticulture New Zealand (PC-13-32/b)** and the further submission of **Horticulture New Zealand (FS-3)** to retain Objective 17.2.2 subject to the removal of the word *disposal* as decided below.
- (ii) **accept** the submissions of **TrustPower Limited (PC-13-40/b)** and **Horticulture New Zealand (PC-13-32/b)** and the further submission of **Horticulture New Zealand (FS-3)** to support the proposed changes to the explanation for Objective 17.2.2.
- (iii) **reject in part** the submission **Mr Tony Parata (PC-13-30-a)** that the reference to injury be removed from the explanation of Objective 17.2.2.

#### Decision PC-13-6.4

It is the Committee's decision to:

- (iv) **accept** the submission of **Mr Tony Parata (PC-13-30-b)** that the disposal of hazardous substances including wastes is not a permitted activity in that the reference to disposal is removed from Objective 17.2.2. (deletions ~~scored out~~, additions underlined):

*Prevent or mitigate the adverse environmental effects and risks arising from facilities and activities involving the storage, use, ~~disposal~~ or transportation of hazardous substances.*

- (v) **accept** the further submission of **Horticulture New Zealand (FS-3)** that the disposal of hazardous substances including wastes does not require resource consent under the Dunedin City District Plan in that the reference to disposal is removed from Objective 17.2.2. (deletions ~~scored out~~, additions underlined):

*Prevent or mitigate the adverse environmental effects and risks arising from facilities and activities involving the storage, use, ~~disposal~~ or transportation of hazardous substances.*

- (vi) **accept** all other changes to 17.2: Objectives as notified.

#### Reasons for Decision

- (i) The Committee notes that Objective 17.2.2 seeks to prevent or mitigate any adverse effects from the storage use, or transportation of hazardous substances.
- (ii) The Committee accepts that the proposed change expands the explanation for Objective 17.2.2 to refer to hazardous wastes which now form part of the definition of hazardous substances.
- (iii) The Committee notes that the purpose of the RMA as recorded in Section 5 states:

*5(2) In this Act, sustainable management means managing 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...*

- (iv) The Committee accepts that hazardous substances are required by HSNO to be disposed of to an appropriate disposal facility and the Committee is satisfied that this control along with the relevant requirements set out in the Regional Plans: Waste, Water and Air will provide for the adequate management of hazardous substance disposal without controls introduced in the District Plan. The Committee therefore considers that the District Plan should neither require resource consent for hazardous substance disposal nor provide for such disposal as a permitted activity; instead, a note should be added to the Plan referring users to the HSNO and Regional Plans: Waste, Water and Air controls and, as such, reference to disposal should be removed for Objective 17.2.2.



### Reasons for Decision

- (v) The Committee are confident that ensuring the community's health and safety falls within their area of responsibility and as such it is appropriate to retain the word *injury* within the explanation for Objective 17.2.2.
- (vi) The Committee notes that no other submissions were received in relation to the changes proposed for 17.2: Objectives as notified.

## 6.5 17.3: POLICIES

Submitter	Decision Sought	Further Submission
<b>Ms Joanna Pollard (PC-13-34/a)</b>	That the words "hazards to social wellbeing and economy" be added to Policy 17.3.8.	
<b>TrustPower Limited (PC-13-40/c)</b>	That Policy 17.3.8 is supported but with the proviso that the plan should be no more stringent than HSNO.	<b>Horticulture New Zealand (FS-3)</b> supports the submission.
<b>Horticulture New Zealand (PC-13-32/c)</b>	That Policy 17.3.8 is supported but raises concerns regarding how sites which contain hazardous substances will be identified.	
<b>Mr Tony Parata (PC-13-30/b)</b>	That the disposal of hazardous substances including wastes is not a permitted activity.	<b>Horticulture New Zealand (FS-3)</b> opposes this submission in part.

### Discussion

**Horticulture New Zealand (PC-13-32/c)** considers that Policy 17.3.8 sets the framework for controlling the storage, use, disposal and transportation of hazardous substances and includes identifying sites where hazardous substances are located. Horticulture New Zealand supports the first part of this policy but has concerns relating to the nature of site identification.

**Horticulture New Zealand** notes that there are no changes proposed to Policy 17.3.8 as part of Plan Change 13 but that other methods which stem from this policy are proposed to be changed. **TrustPower Limited (PC-13-40/c)** and **Horticulture New Zealand (FS-3)** supports Policy 17.3.8 but cautions that the plan should be no more stringent than HSNO.

As noted in the sections above, **Mr Tony Parata** is concerned that the disposal of hazardous substances including wastes is proposed to be a permitted activity and believes that the disposal of any such substance should be restricted to appropriate facilities. **Horticulture New Zealand (FS-3)** opposes this submission as **Horticulture New Zealand** does not wish resource consent to be required for the disposal of wastes. **Ms Joanna Pollard (PC-13-34/a)** considers that the words "hazards to social wellbeing and economy" should be added to Policy 17.3.8.

No other submissions were received in relation the changes to the 17.3: Policies as notified.

### Decision PC-13-6.5

It is the Committee's decision to:

- (i) **accept in part** the submissions of **TrustPower Limited (PC-13-40/c)** and **Horticulture New Zealand (PC-13-32/c)** and the further submission of **Horticulture New Zealand (FS-3)** in that they support Policy 17.3.8 but raise concerns regarding site identification. In consequence, it is recommended that the wording of the policy be amended as follows (deletions ~~scored-out~~, additions underlined):

*... identify sites where hazardous substance processes and facilities which ~~pose a risk to the environment and to health and safety~~ require resource consent are located.*

- (ii) **reject** the submission of **Ms Joanna Pollard (PC-13-34/a)** in that the words "hazards to social well-being and economy" are added to Policy 17.3.8.

- (iii) **accept** the submission of **Mr Tony Parata (PC-13-30-b)** that the disposal of hazardous substances including wastes is not a permitted activity in that the reference to disposal is removed from Policy 17.3.8 (deletions ~~scored-out~~, additions underlined):

*Control activities involving the storage, use, ~~disposal~~ and transportation of hazardous substances...*

- (iv) **accept** the further submission of **Horticulture New Zealand (FS-3)** that the disposal of hazardous substances including wastes does not require resource consent under the Dunedin City District Plan in that the reference to disposal is removed from Policy 17.3.8 (deletions ~~scored-out~~, additions underlined):

*Control activities involving the storage, use, ~~disposal~~ and transportation of hazardous substances...*

- (v) **accept** all other changes to 17.3:Policies as notified.

### Reasons for Decisions

- (i) The Committee accepts that the proposed plan change is specifically related to hazardous substances and by controlling activities and identifying sites which involve hazardous substances the District Plan is implicitly addressing "hazards to social wellbeing and economy".
- (ii) The Committee consider that it is appropriate that Policy 17.3.8 be retained as controlling activities and identifying sites which involve hazardous substances is essential to the management of these.
- (iii) The Committee is aware that HSNO and RMA legislation are designed to work together; where the HSNO Act sets controls on a national level in recognition of the inherent hazard of certain substances, the RMA controls are set through the local planning process so that differences in the sensitivity of the local environment and community needs can be taken into account.

## Reasons for Decisions

- (iv) The Committee is cognisant that on 1 April 2004, all Dunedin City Council Dangerous Goods Licences expired. They have become the responsibility of the Environmental Protection Agency (EPA) under the Hazardous Substances and New Organisms Act 1996. All new licences for hazardous substances are now issued by independent Test Certifiers approved by the EPA. The Committee is aware that the Council no longer holds current information on the use of hazardous substances where resource consent is not required and hazardous substances may be present without the Council's knowledge. As such, the Committee considers that it is appropriate that only sites that the Council is aware of (i.e. require resource consent) be included on the Hazardous Substances register.
- (v) The Committee accepts that hazardous substances are required by HSNO to be disposed of to an appropriate disposal facility and the District Plan is satisfied that this control along with the relevant requirements set out in the Regional Plans: Waste, Water and Air will provide for the adequate management of hazardous substance disposal without controls introduced in the District Plan. The Committee therefore considers that the District Plan should neither require resource consent for hazardous substance disposal nor provide for such disposal as a permitted activity; instead, a note should be added to the Plan referring users to the HSNO and Regional Plans: Waste, Water and Air controls and, as such, reference to disposal should be removed from Policy 17.3.8.
- (vi) The Committee notes that no other submissions were received in relation to the changes proposed for 17.3: Polices as notified.

## 6.6 17.4: METHODS

Submitter	Decision Sought	Further Submission
<b>Ms Joanna Pollard (PC-13-34/b)</b>	That "hazards to the environment, including flora and fauna, natural and introduced" be added to the hazards listed in Method 17.4.1 – Hazards Register.	
<b>Horticulture New Zealand (PC-13-32/d)</b>	<p>That clarification be sought around the purpose of Method 17.4.2 and proposes amendments which specify that the Hazardous Substances Register be limited to consented activities.</p> <p>That the wording in Method 17.4.2 "The register will also include information on known contaminated sites" be deleted.</p>	<b>TrustPower Limited (FS-5)</b> supports this submission.

<b>Submitter</b>	<b>Decision Sought</b>	<b>Further Submission</b>
<b>TrustPower Limited (PC-13-40/d)</b>	That Method 17.4.2 be amended so that only activities involving hazardous substances that require resource consent are required to be recorded on the register.	<b>Horticulture New Zealand (FS-3)</b> supports this submission.
<b>Horticulture New Zealand (PC-13-32/e)</b>	That Method 17.4.5 be amended by adding the following clause 17.4.5 iii):  "Liaise with other agencies, including the EPA, Dept of Labour, Ministry of Health, Ministry for the Environment and affected landowners regarding use, storage, transport or disposal of hazardous substances."	
<b>TrustPower Limited (PC-13-40/e)</b>	That reference to ERMA be removed from Method 17.4.5.	<b>Horticulture New Zealand (FS-3)</b> supports this submission.
<b>Chemsafety Limited (PC-13-41/c)</b>	That Method 17.4.5 be amended to remove the reference to ERMA and instead refer to the Ministry for the Environment.	
<b>Horticulture New Zealand (PC-13-32/f)</b>	That, in respect of Method 17.4.6, the removal of the "Hazardous Facilities Screening Procedure" be supported, but that the reference to industry codes of practice be retained.	<b>Federated Farmers of New Zealand (FS-1)</b> supports this submission in part.  <b>TrustPower Limited (FS-5)</b> supports this submission in part.
<b>TrustPower Limited (PC-13-40/f)</b>	That Method 17.4.6 be retained with no amendments.	<b>Horticulture New Zealand (FS-3)</b> part supports and part opposes this submission.
<b>Ms Joanna Pollard (PC-13-34/c)</b>	That Method 17.4.7(i) be strengthened with regard to the use of target specific traps for vertebrates and invertebrates.	
<b>Mr Tony Parata (PC-13-30/b)</b>	That the disposal of hazardous substances including wastes is not a permitted activity.	<b>Horticulture New Zealand (FS-3)</b> opposes this submission in part.

## Discussion

With regard to Method 17.4.2 – Hazardous Substances Register, **Horticulture New Zealand (PC-13-32/d and FS-3)** and **TrustPower Limited (PC-13-40/d and FS-5)**, consider that it is impractical to expect all hazardous substances of all quantities and storage methods to be registered. These submitters consider that only those activities which require resource consent should be required to go on the Hazardous Substances Register. **Horticulture New Zealand (PC-13-32/d)** further considers that the sentence “The register will also include information on known contaminated sites” should be deleted from this method.

With regard to Method 17.4.5 – Liaison, **Chemsafety Limited (PC-13-41/c)** and **TrustPower Limited (PC-13-40/e)**, supported by **Horticulture New Zealand (FS-3)**, note that ERMA has been disestablished; **Chemsafety Limited** considers that the method should instead refer to the Ministry for the Environment. **Horticulture New Zealand (PC-13-32/e)** considers that an additional clause should be added to this method to include liaison with other agencies such as the Environmental Protection Agency, Department of Labour, Ministry of Health, Ministry for the Environment and affected landowners.

With regard to Method 17.4.6 – Accords and Protocols, **TrustPower Limited (PC-13-40/f)** considers that the removal of the reference to the Hazardous Facility Screening Procedures (HFSP) and industry codes of practice will result in a method statement that does not make sense, and will also mean that there will be no procedures against which to assess resource consents or existing facilities. As such, **TrustPower Limited** requests that no changes are made to the existing wording of the method. **Horticulture New Zealand (PC-13-32/f)** is in favour of the deletion of reference to the HFSP, but seeks that the reference to industry codes of practice be retained. Therefore, **Horticulture New Zealand (FS-3)** part supports and part opposes **TrustPower Limited’s** submission. **Federated Farmers of New Zealand (FS-1)** and **TrustPower Limited (FS-5)**, part support **Horticulture New Zealand’s** submission in that it seeks to retain reference to industry codes of practice in the method.

As noted in the sections above, **Mr Tony Parata** is concerned that the disposal of hazardous substances including wastes is proposed to be a permitted activity and believes that the disposal of any such substance should be restricted to appropriate facilities. **Horticulture New Zealand (FS-3)** opposes this submission as **Horticulture New Zealand** does not wish resource consent to be required for the disposal of wastes.

No other submissions were received in relation the changes to the 17.4: Methods as notified.

### Decision PC-13/6.6

It is the Committee’s decision to:

- (i) **reject in part** the submission of **Horticulture New Zealand (PC-13-32/d)** that the sentence “The register will also include information on known contaminated sites” be deleted from Method 17.4.2.

## Decision PC-13/6.6

It is the Committee's decision to:

- (ii) **accept in part** the submission and further submission of **Horticulture New Zealand (PC-13-32/d and FS-3)** and **TrustPower Limited (PC-13-40/d)** in that the Hazardous Substances Register be limited to consented activities. In consequence, it is recommended that the wording of Method 17.4.2 be amended as follows (addition underlined):

*Compile and maintain a Hazardous Substances Register listing the locations and types of consented activities that ...*

- (iii) **accept** the footnote proposed by the S42A report which clarifies the status of the Dangerous Goods Licensing Act and role of the Environmental Protection Agency in holding information relating to hazardous substances (addition underlined):

On 1 April 2004, all Dunedin City Council Dangerous Goods Licences expired. They have become the responsibility of the Environmental Protection Agency (EPA) under the Hazardous Substances and New Organisms Act 1996. All new licences for hazardous substances are now issued by independent Test Certifiers approved by the EPA. The Council no longer holds current information on the use of hazardous substances where resource consent is not required and hazardous substances may be present without the Council's knowledge.

- (iv) **accept** the submissions of **Chemsafety Limited (PC-13-41/c)** and **TrustPower Limited (PC-13-40/e)** and the further submission of **Horticulture New Zealand (FS-3)** that the reference to ERMA in Method 17.4.5 be removed and accept the submission of **Horticulture New Zealand (PC-13-32/e)** that Method 17.4.5 be broadened to include liaising with other agencies such as the Environmental Protection Agency, Department of Labour, Ministry of Health, Ministry for the Environment and affected landowners. In consequence, it is recommended that the wording of Method 17.4.5 (i) be amended as follows (deletion ~~scored out~~, addition underlined):

*Liaise with other agencies, including ~~ERMA~~, EPA, Department of Labour ...*

- (iv) **accept** the submission and further submission of **Horticulture New Zealand (PC-13-32/f and FS-3)** and the further submission of **Federated Farmers of New Zealand (FS-1)** in that the removal of the 'Hazardous Facilities Screening Procedure' for Method 17.4.6 be supported but that the reference to industry codes of practice be retained, and accept in part the submission and further submission of **TrustPower Limited (PC-13-40/f and FS-5)** that the reference to industry codes of practice be retained. In consequence, it is recommended that the wording of Method 17.4.6 be amended as follows (addition underlined):

*The Council will use appropriate procedures, for example industry codes of practice, to assess resource consent applications for the establishment and operation of hazardous processes and facilities within the City ...*

### Decision PC-13/6.6

It is the Committee's decision to:

- (v) **reject in part** the submission and further submission of **TrustPower Limited (PC-13-40/f and FS-5)** that the reference in Method 17.4.6 to the 'Hazardous Facilities Screening Procedure' be retained.
- (vi) **reject** the submission of **Ms Joanna Pollard (PC-13-34/b)** to make changes to Method 17.4.1 – Hazards Register.
- (vii) **reject** the submission of **Ms Joanna Pollard (PC-13-34/c)** to strengthen Method 17.4.7 with regard to the use of target specific traps.
- (viii) **accept** the submission of **Mr Tony Parata (PC-13-30-b)** that the disposal of hazardous substances including wastes is not a permitted activity in that the reference to disposal is removed from Method 17.4.2 (deletions ~~scored-out~~, additions underlined):  
*Compile and maintain a Hazardous Substances Register listing the locations and types of consented activities that generate, use, store, or transport ~~dispose of~~ hazardous substances...*
- (ix) **accept** the further submission of **Horticulture New Zealand (FS-3)** that the disposal of hazardous substances including wastes does not require resource consent under the Dunedin City District Plan in that the reference to disposal is removed from Method 17.4.2 (deletions ~~scored-out~~, additions underlined):  
*Compile and maintain a Hazardous Substances Register listing the locations and types of consented activities that generate, use, store, or transport ~~dispose of~~ hazardous substances...*
- (x) **accept** all other changes to 17.4:Methods as notified.

### Reasons for Decision

- (i) The Committee is cognisant that on 1 April 2004, all Dunedin City Council Dangerous Goods Licences expired. They have become the responsibility of the Environmental Protection Agency (EPA) under the Hazardous Substances and New Organisms Act 1996. All new licences for hazardous substances are now issued by independent Test Certifiers approved by the EPA. The Committee is aware that the Council no longer holds current information on the use of hazardous substances where resource consent is not required and hazardous substances may be present without the Council's knowledge. As such, the Committee consider that it is appropriate that only sites that the Council is aware of (i.e. require resource consent) be included on the hazardous substances register.
- (ii) The Committee considers that pursuant to S31 and S35 of the RMA they are required to maintain records regarding contaminated sites and as such it is determined that the Hazardous Substances Register is an appropriate location to keep this information.

### Reasons for Decision

- (iii) The Committee agrees that the reference to ERMA should be removed. In addition it is appropriate that relevant agencies and parties such as EPA, Department of Labour, Ministry of Health, Ministry for the Environment and affected landowners are included.
- (iv) The Committee recognises that it is not the intention of the Hazardous Substances Section of the plan to use the "Hazardous Substances Screening Facility" methods and as such it is appropriate to remove all reference to this from the plan. However, the Committee notes that it is intended that some industry codes of practice are to be used within this section and, therefore, this reference is relevant and should be retained.
- (v) The Committee advises that the hazards section of the District Plan is currently under review and there will be opportunity to promote any changes to the methods specific to natural hazards (such as Method 17.4.1) during that process.
- (vi) The Committee considers that it is desirable to encourage the implementation of environmentally acceptable technologies for the use of hazardous substances, whether these are used in target specific traps or not.
- (vii) The Committee notes that no other submissions were received in relation to the changes proposed for 17.4: Methods as notified.

## 6.7 RULES: NOTES TO PLAN USERS

Submitter	Decision Sought	Further Submissions
<b>Mr Tony Parata (PC-13-30/a)</b>	That the use of thresholds/consents to regulate the storage and use of hazardous substances are opposed because there are now comprehensive HSNO controls.	
<b>Mr Tony Parata (PC-13-30/b)</b>	That the disposal of hazardous substances including wastes is not a permitted activity.	
<b>Holcim (New Zealand) Limited (PC-13-37/d)</b>	That the Port 2 Zone be included in the list of zones in which permitted activity thresholds apply per hazardous sub-facility, rather than per site.	<b>Port Otago Limited (FS-4)</b> supports this submission.
<b>Ravensdown (PC-13-39/b)</b>	Clarify whether thresholds apply to individual substance types or to the sum of all substances within each HSNO class or sub-class.	<p><b>Federated Farmers of New Zealand (FS-1)</b> supports this submission.</p> <p><b>Horticulture New Zealand (FS-3)</b> supports this submission.</p> <p><b>Port Otago Limited (FS-4)</b> supports this submission.</p>



## Discussion

**Mr Tony Parata** when speaking to his submission (**PC-13-30/a**) raised concerns that the calculating thresholds limits based on the most stringent substance classification was unduly restrictive and may result in zero thresholds of everyday substances. This point was considered by the Council's Technical Expert who advised the Committee that this was not how Table 17.1 was intended to be used and that he was comfortable with the primary or base class of a substance being used to set the threshold limit. The subsequent result is that the wording of User Note 4 be revised to reflect these changes. The Committee note 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. The Committee considered that this advice should also be included within the revised user note.

As noted in the sections above, **Mr Tony Parata** is also concerned that the disposal of hazardous substances including wastes is proposed to be a permitted activity and believes that the disposal of any such substance should be restricted to appropriate facilities. **Horticulture New Zealand (FS-3)** opposes this submission as **Horticulture New Zealand** does not wish resource consent to be required for the disposal of wastes and as such clarification of this should be included within the user notes.

**Ravensdown (PC-13-39/b)**, supported by **Federated Farmers of New Zealand (FS-1)**, **Horticulture New Zealand (FS-3)** and **Port Otago (FS-4)**, seeks clarification as to whether the thresholds in Table 17.1 apply to individual substance types or to the sum of all substances within each HSNO class or sub-class.

**The LPG Association of New Zealand (PC-13-33/a)**, supported by **Federated Farmers of New Zealand (FS-1)**, requests that Permitted activity notified Rules 17.5.1(iv), (v), (vi) and (vii) as notified be removed from Rule 17.5.1 and included within a user guide. It is considered that the submitter is correct in their assessment of the rules and it is recommended that they should be amended to form part of the user guide.

**Holcim (New Zealand) Limited (PC-13-37/d)** and the further submission of **Port Otago Limited (FS-4)** seek an amendment to User Note 6 (formerly Rule 17.5.1(vi)) to include the Port 2 Zone in the list of zones in which permitted activity thresholds apply per hazardous sub-facility, rather than per site (**PC-13-37/d**). This submission is supported by **Port Otago Limited (FS-4)**.

During deliberations the Committee became concerned about the lack of clarity of the intention of the plan change that split or mixed use sites used for residential purposes and for storage or use of hazardous substances shall comply with the Group 1: Residential Zones thresholds. The Committee considers it reasonable that in such cases where there is residential use, other users of the site obtain resource consent before storing, transporting or using hazardous substances. If a site is used for storing, transporting or using hazardous substances then any use of the site for residential use will similarly need resource consent. To ensure clarity of this intention the Committee resolve to introduce a user note to that effect pursuant to Clause 16(2) of the First Schedule of the Resource Management Act 1991.

No other submissions were received in relation the changes to the *Notes to Plan Users* as notified.

### Decision PC-10/6.7

The Committee's decision is to:

- (i) **accept in part** the submission of **Mr Tony Parata (PC-13-30/a)** in that User Note 4 should be revised to ensure that the base class of a substance is used to calculate the threshold limit. (Changes struck out and additions underlined)

~~4) Unless otherwise stated, if a hazardous substance falls into more than one HSNO sub-class and is therefore controlled by more than one maximum permitted quantity threshold, the more or most restrictive quantity threshold applies.~~

4) Unless otherwise stated, if a hazardous substance falls into more than one HSNO sub-class and is therefore controlled by more than one maximum permitted quantity threshold, the base or primary class shall determine the maximum permitted quantity threshold. The base or primary class of a substance is the first classification listed beside any substance within Gazette Notice No. 35, as well as on all HSNO required labelling and signage.

- (ii) **accept** the submission of **LPG Association of New Zealand (PC-13-33/a)** and the further submission of **Federated Farmers of New Zealand (FS-1)** that Rules 17.5.1(iv), (v), (vi) and (vii) be removed from Rule 17.5.1 and included within a user guide. These rules shall become Notes 3, 4 6 and 8 in the Note to Plan Users provided at the beginning of the Rules section.

- (iii) **accept** the submission of **Ravensdown (PC-13-39/b)** and further submissions of **Federated Farmers of New Zealand (FS-1)**, **Horticulture New Zealand (FS-3)** and **Port Otago Limited (FS-4)** that all volumes shall be aggregated and that this advice shall be included in the Note to Plan Users provided at the beginning of the Rules section as follows (amendments underlined):

5) All volumes shall be aggregated i.e. as a permitted activity a site may hold the maximum threshold identified in Table 17.1 of each Class 1 plus Class 2 plus Class 3 and/or Class 4.1.3A-C plus Class 4.2A plus Class 4.3A etc .

- (iv) **accept** the submission of **Holcim (New Zealand) Limited (PC-13-37/d)** and the further submission of **Port Otago Limited (FS-4)** that the Port 2 zone be included within Rule 17.5.1(vi) (regardless of whether it remains a rule or forms part of the user guide). In consequence, it is recommended that Note 6 in the Note to Plan Users (formerly Rule 17.5.1(vi), in the plan change as notified) be amended as follows (addition underlined):

6) The permitted quantity thresholds in this table apply per site, except for the Campus, Port 1 and 2, Airport, Industrial 1 zones and forestry and timber treatment activities in the Rural zone, where the permitted quantity thresholds apply per hazardous sub-facility...

### Decision PC-10/6.7

The Committee's decision is to:

- (v) **accept** in part the submission of **Mr Tony Parata (PC-13-30/b)** that the disposal of hazardous substances not be a permitted activity within the District Plan and **accept** in part the further submission of **Horticulture New Zealand (FS-3)** that consent not be required to dispose of hazardous substances. In consequence, it is recommended that the following note be added to the Note to Plan Users at the beginning of the Rules section (addition underlined):  
  
*9) The disposal of hazardous substances is adequately controlled by the HSNO Act and by the Regional Plan: Waste for Otago and is not controlled by the District Plan.*
- (vi) accept the following user note pursuant to Clause 16(2) of the First Schedule of the Resource Management Act 1991 (addition underlined):  
  
*10) Where any site contains residential activity then Group 1: Residential Zones thresholds detailed in Table 17.1 shall exclusively apply, regardless of any other activity occurring on the site, except for within the Group 4: Rural/Rural Residential zone, where Group 1: Residential Zone thresholds apply to the residential dwelling and curtilage only.*
- (vii) **accept** all other changes to Notes to Plan Users as notified.

### Reasons for Decision

- (i) The Committee agrees with Mr Parata's concerns that requiring the thresholds limits to be calculated based on the most stringent substance classification is unduly restrictive and could result in zero thresholds of everyday substances.
- (ii) The Committee accepts that this was not how Table 17.1 is intended to be used and that it is the primary or base class of a substance that should be used to set the threshold limit.
- (iii) 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.
- (iv) The Committee considers that revising User Note 4 as above is the most expedient way to rectify this matter.
- (v) The Committee accepts that hazardous substances are required by HSNO to be disposed of to an appropriate disposal facility and the District Plan is satisfied that this control along with the relevant requirements set out in the Regional Plans: Waste, Water and Air will provide for the adequate management of hazardous substance disposal without controls introduced in the District Plan. The Committee therefore considers that the District Plan should neither require resource consent for hazardous substance disposal nor provide for such disposal as a permitted activity; instead, a note should be added to the Plan referring users to the HSNO and Regional Plans: Waste, Water and Air controls.

### Reasons for Decision

- (vi) The Committee notes that in respect of Rules 17.5.1(iv), (v), (vi) and (vii), it is agreed that these should be amended to form part of the user guide as detailed above.
- (vii) The Committee recognises that the Port 2 Zone is treated as an industrial area which holds or stores significant quantities of material and as such should have similar thresholds to those zones such as Industry and Port 1. The Committee considers that the ability of the Port 2 zone to use the sub-facility calculation will increase the threshold of hazardous substances able to be held within that zone.
- (viii) The Committee accepts that it was always the intention of the proposed plan change that hazardous substance limits should be aggregated. This point of clarification is best located within the user guide.
- (ix) The Committee considers that the inclusion of User Note 10 as detailed above will provide clarity around the intention of the plan in respect to residential activity.
- (x) The Committee notes that no other submissions were received in relation to the changes proposed for Notes for Plan Users as notified.

## 6.8 RULE 17.5.1 - PERMITTED ACTIVITY

Submitter	Decision Sought	Further Submission
<b>Mr Tony Parata (PC-13-30/b)</b>	That the disposal of hazardous substances including wastes is not a permitted activity.	<b>Horticulture New Zealand (FS-3)</b> opposes this submission.
<b>Mr Tony Parata (PC-13-30/c)</b>	That the District Plan not impose any permitted activity thresholds for agrichemicals in the Rural or Rural Residential Zones.	<b>Federated Farmers of New Zealand (FS-1)</b> supports the submission in part.  <b>Horticulture New Zealand (FS-3)</b> supports the submission in part.
<b>Horticulture New Zealand (PC-13-32/g)</b>	That all activities that comply with NZS8409:2004, or that comply with the HSNO requirements for the on-farm storage of Class 3 fuels in the Rural Zone, be provided for as permitted activities.	<b>Federated Farmers of New Zealand (FS-1)</b> supports this submission.
<b>LPG Association of New Zealand (PC-13-33/a)</b>	That Rules 17.5.1 (iv), (v), (vi) and (vii) be removed and instead included within a user guide.	<b>Federated Farmers of New Zealand (FS-1)</b> supports this submission.
<b>Port Otago Limited (PC-13-35/c)</b>	That hazardous substances in transit or short term storage are exempt from resource consent requirement.	

Submitter	Decision Sought	Further Submission
<b>Port Otago Limited (PC-13-35/d)</b>	<p>That Rule 17.5.1 be amended to provide for Port 1 Zone activities as a permitted activity, by adding the following rule:</p> <p><i>the storage, use or disposal of hazardous substances in the Port 1 Zone. The storage, use or disposal must be: no less than 50m from any residential dwelling; within a secure area with no public access; and have a HSNO test certificate (if required) under section 83 of the HSNO Act.</i></p>	
<b>New Zealand Fertiliser Manufacturers' Research Association Incorporated (PC-13-36/a)</b>	<p>That permitted activity status be provided to on-farm storage and use of fertiliser products:</p> <p>That permitted activity conditions be consistent with the HSNO Fertiliser Group Standards.</p> <p>That consequential changes be made to words and references within proposed Chapter 17.</p>	<p><b>Federated Farmers of New Zealand (FS-1)</b> supports this submission.</p> <p><b>Mercy Hospital Dunedin Limited (FS-2)</b> supports this submission in part.</p> <p><b>Horticulture New Zealand (FS-3)</b> supports this submission.</p> <p><b>Port Otago Limited (FS-4)</b> supports this submission.</p>
<b>Holcim (New Zealand) Limited (PC-13-37/b)</b>	<p>That Rule 17.5.1(i) be amended as follows (addition <u>underlined</u>):</p> <p>"The storage, use or disposal of hazardous substances for domestic purposes, associated with a lawfully established residential activity, excluding home occupation. The hazardous substance(s) must form part of a consumer product intended for domestic use. The product must be stored in the container <u>or packaging</u> in which it was sold, and used or disposed of in accordance with the manufacturer's instructions.</p>	<p><b>Port Otago Limited (FS-4)</b> supports this submission.</p>

Submitter	Decision Sought	Further Submission
<b>New Zealand Fertiliser Manufacturers' Research Association Incorporated (PC-13-36/b)</b>	<p>That all local authority (regional, district, city and unitary) hazardous substances policy and rules must be consistent with the Hazardous Substances and New Organisms (HSNO) Act 1996 and associated regulations.</p> <p>That either Table 17.1 be deleted and reference to HSNO Group Standards substituted as applicable; or, that fertiliser use and storage by farmers be exempt from Table 17.1 and be given permitted activity status based on complying with HSNO Fertiliser Group Standards with consequential changes made to words and references within proposed Chapter 17.</p>	<p><b>Mercy Hospital Dunedin Limited (FS-2)</b> supports the submission in part.</p> <p><b>Federated Farmers of New Zealand (FS-1)</b> supports the submission in part.</p> <p><b>Horticulture New Zealand (FS-3)</b> supports the submission.</p>
<b>Holcim (New Zealand) Limited (PC-13-37/c)</b>	<p>That the wording of Rules 17.5.1(iii) and (iv) be amended to make clear that these rules do not apply to activities provided for under Rule 17.5.1(i).</p>	<p><b>Port Otago Limited (FS-4)</b> supports this submission.</p>
<b>Downer EDi Works Limited (PC-13-38/b)</b>	<p>That activities which require a Location Test Certificate become a permitted activity.</p>	<p><b>TrustPower Limited (FS-5)</b> supports the submission.</p>
<b>TrustPower Limited (PC-13-40/a)</b>	<p>That the proposed changes to the District Plan do not impose restrictions that are more stringent than required by HSNO.</p>	<p><b>Federated Farmers of New Zealand (FS-1)</b> support this submission in part.</p> <p><b>Horticulture New Zealand (FS-3)</b> supports this submission.</p>
<b>Chemsafety Limited (PC-13-41/d)</b>	<p>That Rule 17.5.1(ii) should be broadened to match the HSNO definition, which excludes fuels and other substances that are contained within the fuel system, electrical system or control system of the vehicle, aircraft or ship.</p> <p>That the term "excluding home occupation" is clarified.</p>	

## Discussion

**The LPG Association of New Zealand (PC-13-33/a)**, supported by **Federated Farmers of New Zealand (FS-1)**, requests that Rules 17.5.1(iv), (v), (vi) and (vii) be removed from Rule 17.5.1 and included within a user guide. It is considered that the submitter is correct in their assessment of the rules and it is recommended that they should be amended to form part of the user guide.

**Chemsafety Limited (PC-13-41/d)** seeks clarification of the term “excluding home occupation”. The Committee advises that within the Dunedin City District Plan, the definition residential activity includes home occupation. While defined as residential activity, when considering the hazardous substances section of the District Plan, in reality home occupation may result in greater quantities of hazardous substances than what could be expected by reasonable domestic use or that which is permitted within the zone. As such, the Committee believes it is necessary to specifically exclude home occupation to remove any potential loophole.

**Chemsafety Limited** further notes that when dealing with exclusion from regulation of fuels held in the fuel tanks of vehicles, aircraft or ships the HSNO Act refers to “any substance that is required for the motive power or control of a vehicle, aircraft or ship and that is contained within the fuel system, electrical system or control system of the vehicle, aircraft or ship”. This extends the exclusion beyond fuel to hydraulic and brake fluids and any other substance that may be integral to the operation of such vehicles. In the Committee’s opinion, this approach seems reasonable and is supported.

**Holcim (New Zealand) Limited (PC-13-37/b)**, supported by **Port Otago (FS-4)**, seeks clarification that hazardous substances for domestic purposes are exempt from the thresholds under Rule 17.5.1(i) if contained in the packaging in which they were sold.

**TrustPower Limited (PC-13-40/a)**, supported in part by **Federated Farmers of New Zealand (FS-1)** and in full by **Horticulture New Zealand (FS-3)**, supports the aim of the plan change in seeking to ensure the District Plan is in line with HSNO requirements. However, **TrustPower** is concerned that the plan change seeks to impose more stringent restrictions than those put in place by HSNO. In **TrustPower**’s view, there should be consistency between the threshold quantities in HSNO and the District Plan, and justification should be provided as to how the threshold limits were set, as Plan Change 13 does not appear to be consistent with HSNO limits.

**New Zealand Fertiliser Manufacturers’ Research Association Incorporated**, supported by **Federated Farmers of New Zealand (FS-1)**, **Mercy Hospital (FS-2)** and **Horticulture New Zealand (FS-3)**, notes that all local authority (regional, district, city and unitary) hazardous substances policy and rules must be consistent with the Hazardous Substances and New Organisms (HSNO) Act 1996 and associated regulations.

**Federated Farmers of New Zealand (PC-13-43/a)**, supported by **TrustPower Limited (FS-5)** and **Horticulture New Zealand (FS-3)**, also believe that the proposed level of control is not consistent with current HSNO regulations and requirements and consider that where requirements under HSNO rules, regulations, Group Standards, approved Codes of Practice and quantity thresholds are being met, that any Council plan requirement should align with those in a permitted activity framework. **Federated Farmers (PC-13-43/b)** notes that farmers have legal obligations under the HSNO Act in relation to the safe handling and storage of these hazardous substances on farms, substances which are integral to day to day farming activities.

**Federated Farmers (PC-13-43/a)** believe that given the extensive regulatory HSNO environment, parts of the plan change are unnecessary, duplicative, complex and confusing, and that aligning the rules with industry codes of practice within the Rural Zone would ensure greater consistency and clarity for plan users. **Federated Farmers**

**(PC-13-43/b)** also raise concerns specifically as the Plan Change relates to:

- Agrichemical storage and use;
- Fertiliser storage and use;
- Fuel storage and use (above and below ground).

Supported by **Horticulture New Zealand (PC-13-32/g and FS-3)**, **Federated Farmers (PC-13-43/c and FS-1)** seek that the Council:

- Specifically refer to the Fertiliser (Subsidiary Hazard) Group Standard as the applicable standard for the storage and use of fertiliser; and/or
- Adopt rules permitting fertiliser use, storage, transportation and disposal where the Group Standard is complied with; and/or
- Amend Rule 17.5.1(v) to include those activities which comply with group standards as permitted activities.
- Adopt rules permitting matters where FertResearch's Code of Practice for Nutrient Management 2007 is complied with.
- Adopt rules permitting agrichemical use, storage, transportation and disposal where NZS8409:2004 is complied with.

**Mr Tony Parata (PC-13-30/c)** also seeks that the use, storage, and transportation of agrichemicals be complied with. **Federated Farmers (PC-13-43/d)** advise that ERMA [EPA] provides significant guidance to farmers to ensure they meet their obligations regarding both below-ground and above-ground fuel storage and that, in addition to the HSNO Act and regulations, there are also approved HSNO Codes of Practice providing further guidance and rules. **Federated Farmers**, therefore, seek that the above- and below-ground storage and use of fuel should be a permitted activity where HSNO rules, regulations, Group Standards, approved Codes of Practice and quantity thresholds are being met.

**New Zealand Fertiliser Manufacturers' Research Association Incorporated (PC-13-36/b)** advises that the HSNO Fertiliser Group Standards were produced following extensive consultation with all stakeholders and set out conditions that enable this group of hazardous substances to be managed safely to protect human health and the environment, and with the end-user in mind. **New Zealand Fertiliser Manufacturers' Research Association Incorporated** supported by **Federated Farmers of New Zealand (FS-1)**, **Horticulture New Zealand (FS-3)** and **Port Otago (FS-4)**, therefore considers that the storage and use of fertiliser by farmers in compliance with HSNO Fertiliser Group Standards should not be subject to resource consent requirements.

**New Zealand Fertiliser Manufacturers' Research Association Incorporated** seek that either the relevant thresholds should be deleted from Table 17.1, or fertiliser use and storage by farmers in compliance with HSNO Fertiliser Group Standards should be exempt from the Table 17.1. The Committee considers that it is appropriate that fertiliser thresholds are kept in Table 17.1 for those not complying with the group standards or codes of practice.

Speaking to his submission **(PC-13-36/a)** at the hearing, Mr Sneath, on behalf of **New Zealand Fertiliser Manufacturers' Research Association Incorporated**, expanded on the specific group standards considered necessary to effectively control the storage and use of Fertilisers within the Group 4: Rural zone. These are Fertiliser (Corrosive) Group Standard HSR002569, Fertiliser (Oxidising) Group Standard HSR002570, Fertiliser (Subsidiary Hazard) Group Standard HSR002571, Fertiliser (Toxic) Group Standard HSR002572.

**Federated Farmers (PC-13-43/a-d and FS-1)** advised at hearing that they accept the proposed changes detailed in the Section 42A report as they relate to the Permitted Activity Rule 17.5.1.



The Committee acknowledges that TrustPower is a Requiring Authority and many of its sites are designated with no restricting conditions relating to hazardous substances. The Committee agrees that the proposed plan change has not addressed the storage and use of transmission cooling oils as well as it could have and to that end a permitted activity rule to allow the storage and use of these is appropriate in order to enable TrustPower to operate more effectively. In the case of **TrustPower Limited (PC-13-40/a)**, the Committee recommends that the storage and use of these become a permitted activity in order to enable TrustPower to operate more effectively.

**Mr Tony Parata (PC-13-30/b)** is concerned that the disposal of hazardous substances including wastes is proposed to be a permitted activity and believes that the disposal of any such substance should be restricted to appropriate facilities. **Horticulture New Zealand (FS-3)** opposes this submission as **Horticulture New Zealand** does not wish resource consent to be required for the disposal of wastes.

**Holcim (New Zealand) Limited (PC-13-37/c)**, supported by **Port Otago (FS-4)**, seeks amendments to the wording of Rules 17.5.1(iii) and (iv) to make clear that these rules do not apply to activities provided for under Rule 17.5.1(i). **Ravensdown (PC-13-39/a)** also seeks clarification to the wording of Rule 17.5.1(iii).

**Ravensdown (PC-13-39/a)**, supported by **Federated Farmers of New Zealand (FS-1)**, **Horticulture New Zealand (FS-3)** (in relation to the Rural Zone) and by **Port Otago (FS-4)**, requests that activities in the Rural, Industrial and Port Zones that are in compliance with the national HSNO framework be provided for in the District Plan as Permitted Activities.

**Port Otago (PC-13-35/d)** considers that hazardous substances use and storage (i.e. fixed installation) should be a permitted activity in the Port 1 Zone (subject to distance from residential dwellings, security of the site from public access, and compliance with HSNO), for the following reasons:

- The zone is entirely owned and operated by Port Otago Ltd;
- The area is completely secure with no public access;
- There is a considerable buffer between the Port Chalmers secure area and any public area or any residential or commercial area in private use;
- The fluctuation in volumes of hazardous substances on site make a rule based on quantities impractical to apply on a day to day basis; and
- Management within the secure area is under comprehensive control and audit as required by HSNO regulations.

The Committee notes that the port is currently operating under existing use rights, with the exception of the consented diesel tank located on the main wharf. **Port Otago (PC-13-35/c)** also seek that hazardous substances in transit or short term storage are exempt from resource consent requirement subject to certain conditions.

**In respect of the Port 2 Zone, Port Otago Ltd (PC-13-35/f)** seeks a number of amendments to increase the thresholds proposed for certain hazardous substances in this zone. Speaking to their submissions, **Port Otago** tabled a number of permitted activity rules, which they considered would address their concerns, and had been drafted after on-going consultation with Council staff. These proposed rules have had subsequent modifications by the Committee.

It is noted that, as discussed in section 6.22 below, it is recommended in response to submissions that the definition of "hazardous sub-facility" be amended, to include the Port 2 zone amongst those zones which may use sub-facilities to calculate the permitted thresholds limit. In addition, definitions for "hazardous substance locations, transit depot, tracked and non-tracked substances" have also being included in Section 3: definitions.

The ability of the Port Zones to use the sub-facility calculation will increase the quantity of hazardous substances able to be held within this group without resource consent. Specific thresholds have been increased for the Group 6: Port Zones within Table 17.1 for Classes 2 and 3 (see sections 6.11 and 6.12 of this decision).

The most significant change arising from **Port Otago** submission and their attendance at the hearing is the recognition, by the Committee, that **Port Otago** is inclined to store significant quantities of hazardous substances as part of their everyday operations. The nature of their business is such that they often have little notification of the nature of the goods to be stored and, as such, obtaining resource consent within a realistic timeframe is impractical. Therefore, the Committee are of a mind to consider allowing the storage (as opposed to the use) of hazardous substances within the Group 6 Port Zones subject to compliance with HSNO.

While the Committee accept that the locations of the Group 6 :Port Zones is adjacent to a sensitive environment namely Otago Harbour, they note that storage of hazardous substances needs to be undertaken in compliance with HSNO and Department of Labour regulations which provide for containment in an emergency situation. Compliance with these regulations provides the Committee with a level of comfort while not unduly restricting the Port's typical day-to-day operations.

**Port Otago** also sought that this storage exemption be extended to the Industrial 1 zone, however, given the wide range of locations and activities which occur within the Industrial 1 zone, the Committee are exceedingly uncomfortable in relaxing the storage rules to include this zone and, as such, the relatively unconstrained storage of hazardous substances in the Industrial 1 zone is not supported.

It should be noted that **Fulton Hogan Limited (PC-13-42)** who originally submitted against the plan change stated in written evidence that the plan change as amended in the S42A report had largely addressed their concerns. While their written evidence did not specifically state that permitting the storage of hazardous substances within the Industrial 1 zone was the reason they were no longer concerned, this is a change which may affect them.

**Downer EDi Works Limited (PC-13-38/b)**, supported by **TrustPower Limited (FS-5)**, considers that the plan change could result in a situation where a facility or sub-facility may require both a Location Test Certificate and resource consent. **Downer EDi Works Limited** believes that this is an unnecessary duplication and will impose additional and unnecessary costs and delays for site owners and operators. **Downer EDi Works Limited**, therefore, considers that changes should be made to Rule 17.5.1 which would make activities which require a Location Test Certificate permitted.

Similarly, **Holcim (New Zealand) Limited (PC-13-37/e)** seek inclusion of an additional Rule 17.5.1(viii) in the plan change, stating that "Where any new facility is constructed, and a Test Location Certificate or Stationary Container Certification is required, it is deemed that the certified environmental controls are considered adequate. If no Test Location Certificate or Stationary Container Certification is supplied, resource consent will be required under Rule 17.5.2, 17.5.3 or 17.5.4 of this Plan". This submission is supported by **Port Otago (FS-4)** and part supported, part opposed by **Horticulture New Zealand (FS-3)**.

## Decision PC-13/6.8

The Committee's decision is to:

- (i) **accept** in part the submission of **Mr Tony Parata (PC-13-30/b)** that the disposal of hazardous substances not be a permitted activity within the District Plan and **accept in part** the further submission of **Horticulture New Zealand (FS-3)** that consent not be required to dispose of hazardous substances.; and
- (ii) **accept** the submission of **Holcim (New Zealand) Limited (PC-13-37/b)** and the further submission of **Port Otago Limited (FS-4)** that the wording of Rule 17.5.1(i) be amended. In consequence, it is recommended that Rule 17.5.1(i) be amended as follows (deletion ~~struck through~~, addition underlined)

*The storage and use ~~or disposal~~ of hazardous substances for domestic purposes...*

*The product must be stored in the container or packaging in which it was sold and used ~~or disposed of~~ in accordance with the manufactures instructions.*

- (iii) **accept** the submission of **New Zealand Fertiliser Manufacturers' Research Association Incorporated (PC-13-36/b)** and the further submissions of **Mercy Hospital (FS-2)**, **Federated Farmers of New Zealand (FS-1)** and **Horticulture New Zealand (FS-3)** that all local authority (regional, district, city and unitary) hazardous substances policy and rules must be consistent with the Hazardous Substances and New Organisms (HSNO) Act 1996 and associated regulations.
- (iv) **accept in part** the submission of **Ravensdown (PC-13-39/a)** and the further submissions of **Federated Farmers of New Zealand (FS-1)**, **Horticulture New Zealand (FS-3)** and **Port Otago Limited (FS-4)**, that the use and storage of hazardous substance be a permitted activity if the activity complies with HSNO and is located in the Rural, Industrial or Port Zones in that certain activities within each of these zones has been made permitted providing they comply with HSNO Codes of Practice or Group Standards.
- (v) **accept** the submission of **LPG Association of New Zealand (PC-13-33/a)** and the further submission of **Federated Farmers of New Zealand (FS-1)** that Rules 17.5.1(iv), (v), (vi) and (vii) be removed from Rule 17.5.1 and included within a user guide. It is recommended that these rules become Notes 3, 4 6 and 8 in the Note to Plan Users provided at the beginning of the Rules section.
- (vi) **reject in part** the submission of **New Zealand Fertiliser Manufacturers' Research Association Incorporated (PC-13-36/b)** and the further submissions of **Mercy Hospital (FS-2)**, **Federated Farmers of New Zealand (FS-1)** and **Horticulture New Zealand (FS-3)** that either Table 17.1 be deleted and reference to HSNO Group Standards substituted as applicable.

## Decision PC-13/6.8

The Committee's decision is to:

- (vii) **accept** the submissions and further submissions of **Horticulture New Zealand (PC-13/32/g and FS-3)** and **Federated Farmers of New Zealand (PC-13-43/b and FS-1)**, **Mr Tony Parata (PC-13-29/c)** that, within the Rural Zone, the thresholds for agrichemicals stored, transported and used in accordance with NZS8409:2004 be removed. In consequence, it is recommended that permitted activity status be accorded to the storage and use of agrichemicals, by amending Rule 17.5.1 as follows (addition underlined):

### **Rule 17.5.1 Permitted Activities**

*The following activities are permitted activities:*

...  
(iii) The storage and use of agrichemicals within the Group 4 Rural Zone, in accordance with NZS8409:2004.

- (viii) **accept in part** the submissions of **Horticulture New Zealand (PC-13-32/g)** and **Federated Farmers of New Zealand (PC-13-43/d)** and the further submission of **Federated Farmers of New Zealand (FS-1)** that activities complying with the HSNO requirements for the on-farm above-ground storage of Class 3 fuels in the Rural Zone be provided for as permitted activities, within the Rural Zone. In consequence, it is recommended that Rule 17.5.1 be amended as follows (addition underlined):

### **Rule 17.5.1 Permitted Activities**

*The following activities are permitted activities:*

...  
(iv) The storage and use of Class 3 fuels within the Group 4 Rural Zone in accordance with the Environmental Protection Agency's Approved Practice Guide for Above-Ground Fuel Storage on Farms, September 2010.

- (ix) **accept in part** the submissions of **New Zealand Fertiliser Manufacturers (PC-13-36/a)** and **Federated Farmers of New Zealand (PC-13-43/c)**, and the further submissions of **Federated Farmers of New Zealand (FS-1)**, **Mercy Hospital (FS-2)**, **Horticulture New Zealand (FS-3)** and **Port Otago (FS-4)**, that the storage and use of fertiliser in accordance with Fertiliser (Subsidiary Hazard) Group Standard and with FertResearch's Code of Practice for Nutrient Management 2007 be given permitted activity status within the Rural Zone. In consequence, it is recommended that Rule 17.5.1 be amended as follows (addition underlined):

### **Rule 17.5.1 Permitted Activities**

*The following activities are permitted activities:*

...  
(v) The storage and use of fertiliser within the Group 4 Rural Zone in accordance with the  
Fertiliser (Corrosive) Group Standard HSR002569, and  
Fertiliser (Oxidising) Group Standard HSR002570, and  
Fertiliser (Subsidiary Hazard) Group Standard HSR002571, and  
Fertiliser (Toxic) Group Standard HSR002572, and  
FertReaserch's Code of Practice for Nutrient Management 2007.

## Decision PC-13/6.8

The Committee's decision is to:

- (x) **reject in part** the submissions of **Federated Farmers of New Zealand (PC-13-43/b and 43/c)** and the further submission of **Horticulture New Zealand (FS-3)** in that they seek that the District Plan provide for the disposal of agrichemicals and fertilisers as a permitted activity.
- (xi) **reject** the submission of **Federated Farmers of New Zealand (PC-13-43/a)** and the further submissions of **Horticulture New Zealand (FS-3)** and **TrustPower Limited (FS-5)** that all activities that comply with HSNO rules, regulations, Group Standards, approved Codes of Practice and quantity thresholds be made permitted activities in the District Plan.
- (xii) **accept** the submission of **Holcim (New Zealand) Limited (PC-13-37/d)** and the further submission of **Port Otago (FS-4)** that the Port 2 zone be included within Rule 17.5.1(vi) (regardless of whether it remains a rule or forms part of the user guide). In consequence Note 6 in the Note to Plan Users (formerly Rule 17.5.1(vi), in the plan change as notified) be amended as shown in section 6.7.
- (xiii) (xvi) **accept in part** the submission of **Chemsafety Limited (PC-13-41/d)** that Rule 17.5.1(ii) should be broadened to match the HSNO definition, which excludes fuels and other substances that are contained within the fuel system, electrical system or control system of the vehicle, aircraft or ship. In consequence, it is recommended that Rule 17.5.1(ii) be amended as follows (deletion ~~scored out~~, addition underlined):
  - (ii) *The storage and use of fuel ~~in~~ and other substances that are contained in the fuel system, electrical system or control system of motor vehicles, boats, aircraft and small engines. ? Except where a ship is in bad state? What are our powers for an abandoned ship to rid it of fuel?*
- (xiv) **accept in part** the submission of **TrustPower Limited (PC-13-40/a)** in that by making the storage and use of transmission cooling oils a permitted activity the plan imposes less of a restriction on their everyday operation.

*Insert Rule 17.5.1(vi)*

*The storage and use of transformer cooling oils in electricity transformers.*
- (xv) **accept** the submission of **Port Otago (PC-13-35/c)** that hazardous substances in transit or short term storage are exempt from resource consent requirement. In consequence, the following rules shall be inserted (additions underlined):

*17.5.1(vii) The transit and two-hour storage maximum of tracked hazardous substances and 72-hour storage maximum of non-tracked hazardous substances in the Port 1, Port 2 and Industrial 1 zones.*
- (xvi) **reject in part** the submission of **Port Otago (PC-13-35/d)** that the storage and use of hazardous substances should be a permitted activity within the Group 6:Port Zones in that the use and fixed installation storage of hazardous substance is required to comply with the thresholds set out in Table 17.1.

## Decision PC-13/6.8

The Committee's decision is to:

- (xvii) **accept** in part the submission of **Port Otago (PC-13-35/d)** that the storage and use of hazardous substances should be a permitted activity within the Group 6:Port Zones in that the storage of hazardous substance is permitted subject to controls as follows (additions underlined)

17.5.1(ix) The storage of hazardous substances (excluding fixed installations) within the Group 6:Port Zone with either a Hazardous Substance Location Certificate or Transit Depot Certificate issued pursuant to the Hazardous Substances (Classes 1 to 5) Regulations 2001 and for Classes 6, 8, 9 in compliance with the HSNO Act 1996.

- (xviii) **accept** the submissions of **Holcim (New Zealand) Limited (PC-13-37/a)** and **Ravensdown (PC-13-39/a)** and the further submission of **Port Otago Limited (FS-4)** that the wording of Rule 17.5.1 be amended to make clear that the Table 17.1 thresholds do not apply to activities specifically provided for elsewhere in the rule. In consequence, it is recommended that Rule 17.5.1(ix) (formerly numbered Rule 17.5.1(iii), in the plan change as notified) be amended as follows (deletions ~~scored out~~, additions underlined):

~~(iii)~~(ix) Unless provided for by Rules 17.5.1(i)-(viii), the storage, use, or disposal  
transportation of hazardous substances not exceeding the quantity limits and other requirements stipulated in Table 17.1.

- (xix) **reject** the submission of **Holcim (New Zealand) Limited (PC-13-37/e)** and the further submissions of **Horticulture New Zealand (FS-3)** and **Port Otago (FS-4)** and that Rule 17.5.1 be amended to permit any new facility which has obtained a Test Location Certificate or Stationary Container Certification.
- (xx) **reject** the submission of **Downer EDI (PC-13-38/b)** and the further submission of **TrustPower Limited (FS-5)** that those activities which have a Location Test Certificate be permitted.
- (xxi) **reject in part** the submission of **Chemsafety Limited (PC-13-41/d)** that the term "excluding home occupation" in Rule 17.5.1(i) be clarified.
- (xxii) **accept** all consequential changes as a result of the decisions above.
- (xxiii) **accept** all other changes for Permitted Activity Rule 17.5.1 as notified.

## Reasons for Decision

- (i) HSNO and RMA legislation are designed to work together; where the HSNO Act sets controls on a national level in recognition of the inherent hazard of certain substances, the RMA controls are set through the local planning process so that differences in the sensitivity of the local environment and community needs can be taken into account.

## Reasons for Decision

(ii) The following Group Standards and Codes of Practice provide clear, in-depth and detailed information and guidelines on very specific topics:

- The storage and use of agrichemicals within the Group 4 Rural Zone, in accordance with NZS8409:2004.
- The storage and use of Class 3 fuels within the Group 4 Rural Zone in accordance with the Environmental Protection Agency's Approved Practice Guide for Above-Ground Fuel Storage on Farms, September 2010.
- The storage and use of fertiliser within the Group 4 Rural Zone in accordance with the Fertiliser (Corrosive) Group Standard HSR002569, Fertiliser (Oxidising) Group Standard HSR002570, Fertiliser (Subsidiary Hazard) Group Standard HSR002571, Fertiliser (Toxic) Group Standard HSR002572, and FertResearch's Code of Practice for Nutrient Management 2007.

Within the less sensitive environments of the Rural Zone, adherence to the above guidance will ensure operators of rural activities meet their safety and use obligations. In the case of HSNO COP 14-1, 13-1 and 47-1, these are useful documents and it is recommended that these be used as guidance, however, it is considered that they do not negate the need for resource consent.

- (iii) Hazardous substances are required by HSNO to be disposed of to an appropriate disposal facility and the District Plan is satisfied that this control along with the relevant requirements set out in the Regional Plan: Waste will provide for the adequate management of hazardous substance disposal without controls introduced in the District Plan. The District Plan should therefore neither require resource consent for hazardous substance disposal nor provide for such disposal as a permitted activity; instead, a note should be added to the Plan referring users to the HSNO and Regional Plan: Waste controls.
- (iv) In respect of Rules 17.5.1(iv), (v), (vi) and (vii), the Committee accept that these should be included within the Notes to Plan Users as discussed in Section 6.7 of this decision.
- (v) The Committee notes that the port is currently operating under existing use rights, with the exception of the consented diesel tank located on the main wharf.
- (vi) The Committee accepts that hazardous substances in transit are considered to be adequately controlled by HSNO and are comfortable with exempting hazardous substances in transit which comply with HSNO regulations. The Committee considered defining preferred transit routes but are comfortable that the transit of hazardous substances is well regulated. However, preferred transport routes may be identified and considered at some point in the future.
- (vii) The Committee recognises that the Port 2 Zone is treated as an industrial area which holds or stores significant quantities of material and as such should have similar thresholds to those zones such as Industry and Port 1. The Committee considers that the ability of the Port 2 zone to use the sub-facility calculation will increase the threshold of hazardous substances able to be held within that zone in order for activities to undertake normal everyday operations.

## **Reasons for Decision**

- (viii) The Committee advises that a number of definitions have been included as a result of the Permitted Activity Rules 17.5.1 and that these are detailed further in Section 6.22 of this decision.
- (ix) The Committee recognises that the Port is inclined to store significant quantities of hazardous substances as part of their everyday operations and that they often have little notification of the nature of the goods to be stored and, as such, obtaining resource consent within a realistic timeframe is impractical.
- (x) The Committee are of a mind to consider allowing the storage of hazardous substances within the Group 6 Port Zones subject to compliance with HSNO. The committee warns that this exemption does not extend to the use of hazardous substances. While the Committee accepts that the locations of the Group 6: Port Zones is adjacent to a sensitive environment namely Otago Harbour, they note that storage of hazardous substances needs to be undertaken in compliance with HSNO and Department of Labour regulations which provide for containment in an emergency situation. Compliance with these regulations provides the Committee with a level of comfort while not unduly restricting the Port's typical day-to-day operations.
- (xi) The Committee are exceedingly uncomfortable in relaxing the storage rules to include Industrial 1 zone because of the wide range of locations, activities and neighbouring zone types, as such, the relatively unconstrained storage of hazardous substances in the Industrial 1 zone is not supported by the Committee.
- (xii) The Committee agrees that the proposed plan change has not addressed the storage and use of transmission cooling oils as well as it could have and to that end a permitted activity rule to allow the storage and use of these is appropriate in order to enable TrustPower to operate efficiently.
- (xiii) It is reasonable to exclude hazardous substances which are contained within the fuel system, electrical system or control system of a vehicle, aircraft or ship.
- (xiv) It is recommended that the wording of Rule 17.5.1(i) be expanded to include the words "or packaging" to meet the intention of the rule and recognise that not all hazardous substances are stored within containers.
- (xv) It is recommended that the Rules 17.5.1 (xi) (formally (iii)) is amended for the purpose of clarity to ensure that the permitted activity rules do not void each other.
- (xvi) The Committee is cognisant that Test Location Certificates and Stationary Container Certification are not required for HSNO Classes 6, 8 and 9 and, as such, each substance in those classes would require resource consent if the submitters advice was followed. Test certifiers do not take into account surrounding land use and how the hazardous substance may affect these uses, and as such, the Committee consider it would be irresponsible to exempt activities just because they obtain certification.



### Reasons for Decision

- (xvii) The Committee advises that within the Dunedin City District Plan, the definition residential activity includes 'home occupation'. While defined as residential activity, when considering the hazardous substances section of the District Plan, in reality 'home occupation' may result in greater quantities of hazardous substances than what could be expected by reasonable domestic use or that which is permitted within the zone. As such, the Committee consider it necessary to specifically exclude 'home occupation' to remove any potential loophole.
- (xviii) The Committee notes that no other submissions were received in relation to the changes proposed for Permitted Activity Rule 17.5.1 as notified.
- (xix) The Committee advises that specific thresholds have been increased for the Group 6: Port Zones within Table 17.1 for Classes 2 and 3 (see sections 6.11 and 6.12 of this decision).

## 6.9 TABLE 17.1 – GENERAL

Name	Decision sought	Further Submissions
<b>Mercy Hospital Dunedin Limited (PC-13-31/b)</b>	That the thresholds set in proposed Table 17.1 be opposed and thresholds are sought which accommodate the submitter's operation without the need for resource consent.	
<b>Port Otago Limited (PC-13-35/e)</b>	That the District Plan should not contain a table of threshold limits because regulation of this nature is already prescribed under the HSNO regime.	
<b>Ravensdown (PC-13-39/b)</b>	Correct inconsistencies regarding volume of substance to reflect liquid, solid or gas nature of substance.	<p><b>Federated Farmers of New Zealand (FS-1)</b> support the submission.</p> <p><b>Horticulture New Zealand (FS-3)</b> supports the submission.</p> <p><b>Port Otago Limited (FS-4)</b> supports the submission.</p>
<b>Chemsafety Limited (PC-13-41/e)</b>	That the thresholds for hazardous substances outlined in Table 17.1 be made consistent with the risks posed by those substances.	<p><b>Mercy Hospital Dunedin Limited (FS-2)</b> supports the submission.</p> <p><b>Horticulture New Zealand (FS-3)</b> supports the submission.</p>

## Discussion

**Chemsafety Limited (PC-13-41/e)**, supported by **Mercy Hospital (FS-2)** and **Horticulture New Zealand (FS-3)**, considers that the quantities of hazardous substances and the risks posed by those substances are not consistent. The Committee considers that these concerns are considered reasonable and justification of the thresholds was sought from Council's Technical Expert who re-evaluated and rationalised the thresholds.

**Mercy Hospital (PC-13-31/b)** considers that the thresholds set in proposed Table 17.1 are too low and, although the hospital enjoys existing use rights, any increase in the scale of their operation could result in a resource consent requirement for increasing quantities of hazardous substances. The Committee have considered the evidence of **Mercy Hospital** and empathise with its situation. The Committee notes that given **Mercy Hospital's** current activity and zoning, it is required to obtain resource consent for any land use activity it wishes to undertake on that site, regardless of whether it relates to hazardous substances or not. Furthermore, consent for hazardous substances could be considered at the time that any other resource consent application was being processed.

The Committee is aware that **Mercy Hospital** has requested that the entire threshold limit for the Group1: Residential zone be changed to accommodate their operational needs or seek to have non-residential limits apply to them. The Committee is uncomfortable with amending the entire Group1: Residential zone thresholds to address the needs of one non-residential user and cannot support this approach.

In respect of non-residential limits, the Committee considered accommodating **Mercy Hospital** within the Group 3: Campus zone as this is where the thresholds for Dunedin Public Hospital are set, however, after testing all of the thresholds which apply to the Group 3 zone, the Committee is uneasy with these limits applying to the Residential 1 zoned site. Ultimately, the Committee accepts that **Mercy Hospital's** activity is an exception within this zone but considers that it would be irresponsible to raise the District Plan thresholds for the residential zones across the board to accommodate one anomalous hazardous substance user and that given the location of the site it is appropriate that the use or storage of any hazardous substances is assessed separately.

**Port Otago (PC-13-35/e)** considers that the District Plan should not contain a table of threshold limits because regulation of this nature is already prescribed under the HSNO regime. However, as discussed in section 6.1 above, The Committee considers that it was never the intention of the Ministry for the Environment that HSNO stand alone as the sole control for hazardous substances.

**Ravensdown** further requests that inconsistencies in Table 17.1 be addressed regarding the nature of the substance (i.e. liquid, solid or gas) to ensure ease of calculation.

### Decision PC-13/6.9

The Committee's decision is to:

- (i) **reject** the submission of **Mercy Hospital (PC-13-31/b)**, that the thresholds set in proposed Table 17.1 be introduced which accommodate the submitter's operation without the need for resource consent.
- (ii) **reject** the submission of **Port Otago (PC-13-35/e)** that the District Plan should not contain a table of threshold limits because regulation of this nature is already prescribed under the HSNO regime.

### Decision PC-13/6.9

The Committee's decision is to:

- (iii) **accept** the submission of **Ravensdown (PC-13-39/b)** and the further submissions of **Federated Farmers of New Zealand (FS-1)** and **Horticulture New Zealand (FS-3)** that inconsistencies regarding volume of substance to reflect liquid, solid or gas nature of substance should be addressed.
- (vii) **accept** the submission of **Chemsafety Limited (PC-13-41/e)**, and the further submissions of **Mercy Hospital (FS-2)** and **Horticulture New Zealand (FS-3)** in that the quantities of hazardous substances outlined in Table 17.1 be made consistent with the risks posed by those substances.

### Reasons for Decision

- (i) The Committee considers that in the case of Mercy Hospital that it would be irresponsible to raise the District Plan thresholds for the residential zones across the board to accommodate one anomalous hazardous substance user.
- (ii) The Committee believes that allowing the Mercy Hospital site to have the same thresholds as the Group 3: Campus Zone would be irresponsible and consider that the use and storage of hazardous substances in the Mercy Hospital site should be evaluated separately.
- (iii) The Committee advise that HSNO and RMA legislation are designed to work together; where the HSNO Act sets controls on a national level in recognition of the inherent hazard of certain substances, the RMA controls are set through the local planning process so that differences in the sensitivity of the local environment and community needs can be taken into account. The Committee recognises that it was never the intention that HSNO stand alone as the sole control for hazardous substances.
- (iv) The Committee is satisfied that all substances thresholds have been devised with Technical Expert assistance. Where threshold limits have been challenged these have been amended only where there is adequate justification and valid reason.
- (v) The Committee is comfortable that each class of substance has been reassessed and have made some changes to ensure the relevant threshold is commensurate to the risk of the substance.

### 6.10 TABLE 17.1 – CLASS 1 THRESHOLDS

Submitter Name	Decision Sought	Further Submissions
<b>Allan Millar's Hunting &amp; Fishing PC-13-1</b>	To increase the amount of 1.4S safety ammunition to be stored.	
<b>Mr Glen Miller PC-13-2</b>	To increase the amount of Class 1 explosive to be stored at residential locations.	

<b>Submitter Name</b>	<b>Decision Sought</b>	<b>Further Submissions</b>
<b>Mr David Holdsworth PC-13-3</b>	Supports Classes 1.1D and 1.3C thresholds but wishes Class 1.4S threshold to be increased to 25kg.	
<b>Mr Lindsay Strong PC-13-4</b>	To increase the amount of 1.4S safety ammunition to be stored to 25kg.	
<b>Antique Arms Association Otago Branch PC-13-5</b>	To increase proposed thresholds of Class 1.1D to 15kg, and Class 1.4S to 25kg and for Class 1.3C to remain at the proposed 15kg.	<b>Mercy Hospital Dunedin Limited (FS-2)</b> supports this submission in part.
<b>New Zealand Antique &amp; Historical Arms Association Inc. PC-13-6</b>	To increase proposed thresholds of Class 1.1D to 15kg, and Class 1.4S to 25kg and for Class 1.3C to remain at the proposed 15kg.	<b>Mercy Hospital Dunedin Limited (FS-2)</b> supports this submission in part.
<b>Antique Arms Association Otago Branch PC-13-7</b>	To increase proposed thresholds of Class 1.1D to 15kg, and Class 1.4S to 25kg and for Class 1.3C to remain at the proposed 15kg and that net explosive quantity (NEQ) be used as the unit of measure for these quantities.	<b>Mercy Hospital Dunedin Limited (FS-2)</b> supports this submission in part.
<b>Mr Ross Dungey PC-13-8</b>	To increase proposed thresholds of Class 1.1D to 15kg, and Class 1.4S to 25kg and for Class 1.3C to remain at the proposed 15kg.	
<b>Dr John Osborne PC-13-9</b>	To increase proposed thresholds of Class 1.1D to 15kg, and Class 1.4S to 25kg and for Class 1.3C to remain at the proposed 15kg.	
<b>Dunedin Clay Target Club Inc PC-13-10</b>	To increase proposed thresholds of Class 1.1D to 15kg, and Class 1.4S to 25kg and for Class 1.3C to remain at the proposed 15kg.	<b>Mercy Hospital Dunedin Limited (FS-2)</b> supports this submission in part.
<b>Mr Chaz Forsyth PC-13-11</b>	To increase proposed thresholds of Class 1.1D to 15kg, and Class 1.4S to 25kg and for Class 1.3C to remain at the proposed 15kg	
<b>Dunedin Clay Target Club Inc PC-13-12</b>	To increase the amount of 1.4S safety ammunition to be stored to 25kg.	<b>Mercy Hospital Dunedin Limited (FS-2)</b> supports this submission in part.
<b>Mr Selwyn Smith PC-13-13</b>	To increase the amount of 1.4S safety ammunition to be stored to 25kg.	
<b>New Zealand Deer Stalkers' Association Incorporated PC-13-14</b>	To increase proposed thresholds of Class 1.1D to 15kg, and Class 1.4S to 25kg and for Class 1.3C to remain at the proposed 15kg	<b>Mercy Hospital Dunedin Limited (FS-2)</b> supports this submission in part.
<b>New Council of Licensed Firearms Owners Incorporated (COLFO) PC-13-15</b>	Asks for Council not to adopt the proposed thresholds in relation to Class 1.4S explosive.	<b>Mercy Hospital Dunedin Limited (FS-2)</b> supports this submission in part.
<b>Ms Adrienne Sears New Zealand Clay Target Association Inc. PC-13-16</b>	To increase proposed thresholds of Class 1.1D to 15kg, and Class 1.4S to 25kg and for Class 1.3C to remain at the proposed 15kg	<b>Mercy Hospital Dunedin Limited (FS-2)</b> supports this submission in part.
<b>New Zealand Service Rifle Association Inc PC-13-17</b>	To increase proposed thresholds of Class 1.1D to 15kg, and Class 1.4S to 25kg and for Class 1.3C to remain at the proposed 15kg	<b>Mercy Hospital Dunedin Limited (FS-2)</b> supports this submission in part.

Submitter Name	Decision Sought	Further Submissions
<b>Otago-Southland Firearm Owners Coalition PC-13-18</b>	To increase proposed thresholds of Class 1.1D to 15kg, and Class 1.4S to 25kg and for Class 1.3C to remain at the proposed 15kg	<b>Mercy Hospital Dunedin Limited (FS-2)</b> supports this submission in part.
<b>Bruce Rifle Club (Inc) PC-13-19</b>	To increase proposed thresholds of Class 1.1D to 15kg, and Class 1.4S to 25kg and for Class 1.3C to remain at the proposed 15kg	<b>Mercy Hospital Dunedin Limited (FS-2)</b> supports this submission in part.
<b>Sporting Shooters Association of NZ (SSANZ) PC-13-20</b>	To increase proposed thresholds of Class 1.1D to 15kg, and Class 1.4S to 25kg and for Class 1.3C to remain at the proposed 15kg	<b>Mercy Hospital Dunedin Limited (FS-2)</b> supports this submission in part.
<b>Mr Andrew Keene PC-13-21</b>	To increase the amount of 1.4S safety ammunition to be stored to 25kg.	
<b>Mr Jay MacLean PC-13-22</b>	To increase proposed thresholds of Class 1.1D to 15kg, and Class 1.4S to 25kg and for Class 1.3C to remain at the proposed 15kg	
<b>Mr Simon Westoby PC-13-23</b>	To increase the amount of 1.4S safety ammunition to be stored to 25kg.	
<b>Otago Branch (Inc) New Zealand Deerstalkers' Association PC-13-24</b>	To increase proposed thresholds of Class 1.1D to 15kg, and Class 1.4S to 25kg and for Class 1.3C to remain at the proposed 15kg	<b>Mercy Hospital Dunedin Limited (FS-2)</b> supports this submission in part.
<b>Mr Evan Johnston PC-13-25</b>	To increase the amount of 1.4S safety ammunition to be stored to 25kg.	
<b>Mr Steve Kilby PC-13-26</b>	To increase proposed thresholds of Class 1.1D to 15kg, and Class 1.4S to 25kg and for Class 1.3C to remain at the proposed 15kg.	
<b>Ms Ellen Kilby PC-13-27</b>	To increase proposed thresholds of Class 1.1D to 15kg, and Class 1.4S to 25kg and for Class 1.3C to remain at the proposed 15kg.	

## Discussion

Under the current District Plan, no person is able to hold gun-powder or black-powder at any residential dwelling or in any other activity located within a Residential Zone. In respect of smokeless ammunition, reloading powder and safety ammunition, a limit of 15kg is imposed at any residential dwelling or in any other activity located within a Residential Zone. Within the Rural Zone the limits are 25kg and 50kg respectively. Under HSNO, the maximum limits provided are 15kg for gun-powder or black-powder, 15kg for smokeless ammunition reloading powder and 25kg safety ammunition.

Each of the 27 submitters above sought an increase in the threshold proposed for Class 1.4S safety ammunition within Residential and Rural Zones, with 26 out of the 27 submitters seeking to increase the limit to 25kg Net Explosive Quantity (NEQ) within Residential Zones as this would be consistent with the thresholds set by HSNO. The submitters noted that, in order to store any Class 1.4S safety ammunition within a residence, they must be vetted by the Police and meet strict handling and storage criteria. The remaining submitter, **Mr Scott Kunac (PC-13-1)**, who operates a sporting goods store which is located within a residential zone, seeks a higher threshold which would not restrict his business. It is noted that since the time of his submission Mr Kunac has obtained resource consent to allow him to store and sell Classes 1.4S, 1.3 and 1.1D at his store.

Of the submitters above, 21 supported the threshold of 15kg NEQ for Class 1.3C smokeless ammunition reloading powder as this was consistent with current HSNO

regulations. Twenty submitters sought the Class 1.1D gun-powder and black-powder threshold be increased to 15kg NEQ to ensure consistency with HSNO regulations. **Mr David Holdsworth (PC-13-3)** supported the proposed limit of 5kg NEQ to be set for this class.

The **Antique Arms Association Otago Branch (PC-13-7)** and the **Dunedin Clay Target Club Inc (PC-13-10)** sought that the intended unit of measure of the Class 1 substances be Net Explosive Quantity (NEQ). It is noted that the **Dunedin Clay Target Club Inc** also requested a set of conditions likely to be imposed on the Dunedin Clay Target Club should they need to relocate to new premises. Given that any conditions imposed would relate specifically to the new location, environment and surrounding land use, it would be misleading and irresponsible to consider a suite of conditions at this time.

It should be noted that where the above submissions asked for consistency with the limits set by Auckland, Wellington and Christchurch Councils' or sought consistency with the rest of the country, unless a single substance was specified, it was assumed that they sought a limit of 25kg NEQ for Class 1.4S, 15kg for Class 1.3C and 15kg NEQ for Class 1.1D as this information was provided by the meeting organiser at a public meeting held at the Waldronville Gun Club.

Similarly, where a submitter requested alignment with HSNO, it was assumed that they also sought a limit of 25kg NEQ for Class 1.4S, 15kg for Class 1.3C and 15kg NEQ for Class 1.1D. It should be noted that **Mercy Hospital (FS-2)** supported those submissions which sought alignment of the District Plan with the limits imposed by HSNO.

For clarification, Christchurch City's Hazardous Substances rules within their District Plan sets limits for classes which were derived from the Dangerous Goods Licensing Act. These classes have been superseded by HSNO (hence Dunedin City's Proposed Plan Change) and cannot be directly compared with the classes defined under HSNO.

In the case of Wellington, they changed their Hazardous Substances section of the Wellington City Plan in 2006 and adopted the Hazardous Facilities Screening Procedure (HFSP) to determine whether or not resource consent is required. Each property is assessed on a site-by-site basis and, therefore, it is difficult to categorically say that there is a residential limit of 25kg NEQ for Class 1.4S safety ammunition or 15kg for Class 1.1D gun-powder and black-powder for example. Auckland, like Wellington also uses the HFSP to determine the amount of Class 1 substances before determining resource consent is required.

While most submitters did not specify which zones they were referring to when requesting an increase in the threshold limits, as many of the submitters on this matter appear to be non-commercial in nature it is assumed that the thresholds proposed for the residential and rural zones are of most concern to them.

The requested changes have been assessed by the Council's Technical Expert, Mr Rex Alexander, who considers that given the users of Class 1.1D and Class 1.4S are required to go through a vetting process, which is external and separate from Council, that the risk of increasing the proposed limits is negligible and he supports raising the limits within the Residential and Rural Zones as requested by the above submitters.

The committee are satisfied that a zero threshold of Sodium Azide Class 1.4S as proposed in the S42A can be considered. No other submissions were received in relation to the changes to the Table 17.1: Class 1 Thresholds as notified.

## Decision PC-13/6.10

The Committee's decision is to:

- (i) **accept** the submissions **PC-13-2, PC-13-3, PC-13-5 to PC-13-11, PC-13-13 to PC-13-20, PC-13-22, PC-13-24, PC-13-26 and PC-13-27** and **accept in part** the further submission of **Mercy Hospital (FS-2)** that the threshold contained in proposed Table 17.1 for Class 1.1D gunpowder and black powder be 15kg (NEQ) in Group 1 and Group 4 sites (i.e. Residential, Rural and Rural Residential Zones). In consequence, it is recommended that Table 17.1 be amended as follows (deletion ~~scored-out~~, addition underlined):

Under Explosives/Class 1.1A-G, J, L Gunpowder and black powder/Groups 1 and 4:

~~5kg~~ 15kg NEQ

- (ii) **reject in part** the submission of **Mr David Holdsworth (PC-13-3)** that the threshold contained in proposed Table 17.1 for Class 1.1D gunpowder and black powder be 5kg (NEQ).

- (iii) **accept** the submissions **PC-13-2, PC-13-3, PC-13-5 to PC-13-11, PC-13-13 to PC-13-20, PC-13-22, PC-13-24, PC-13,26 and PC-13-27** and **accept in part** the submission of **Mr David Holdsworth (PC-13-3)** and the further submission of **Mercy Hospital (FS-2)** that the threshold as proposed by Plan Change 13 contained in Table 17.1 for Class 1.3C smokeless ammunition and reloading powder be 15kg (NEQ) in Group 1 and 4 sites (i.e. the Residential, Rural and Rural Residential Zones). No change to plan change as notified.

- (iv) **accept** the submissions **PC-13-1 to PC-13-2 and PC-13-4 to PC-13-27** and **accept in part** the submission of **Mr David Holdsworth (PC-13-3)** and the further submission of **Mercy Hospital (FS-2)** that the threshold for Class 1.4S Safety Ammunition be 25kg NEQ in Group 1 and 4 sites (i.e. the Residential, Rural and Rural Residential Zones). In consequence, it is recommended that Table 17.1 be amended as follows (deletions ~~scored-out~~, additions underlined):

Under Explosives/Class 1.4B-G, S Safety ammunition and marine flares/Groups 1 and 4:

~~15kg~~ 25kg NEQ

- (v) **accept** the submissions of the **Antique Arms Association Otago Branch (PC-13-7)** and the **Dunedin Clay Target Club Inc. (PC-13-10)** that the intended unit of measure of the Class 1 substances be Net Explosive Quantity (NEQ) and this be recorded within Table 17.1.

- (vi) **accept** the recommendation within the S42A report that Sodium Azide Class 1.4S Explosive have a zero threshold (additions underlined):

Under Explosives/Class 1.4B-G, S/Groups 1-7

Sodium Azide

0

- (vii) **accept** all other changes to Table 17.1: Class 1 Thresholds as notified.

### 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
<b>LPG Association of New Zealand (PC-13-33/b)</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>	
<b>Chemsafety Limited (PC-13-41/f)</b>	<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>	<b>Mercy Hospital Dunedin Limited (FS-2) and Horticulture New Zealand (FS-3)</b> support this submission in part.
<b>Port Otago Limited (PC-13-35/a)</b>	That the threshold for LPG does not allow them to operate their existing LPG storage facilities as a permitted activity.	
<b>University of Otago (PC-13-29)</b>	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
<b>Mercy Hospital Dunedin Limited (PC-13-31/a)</b>	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*

### Decision PC-13/6.11

The Committee's decision is to:

- (viii) **accept in part** the submission of **Port Otago (PC-13-35/a)** that the limits imposed by Table 17.1 unduly restricts their operation in that the threshold of total storage quantity for LPG be increased to 600kg within the Group 6 Port Zones (deletions ~~scored out~~, additions underlined):

Under Gases and aerosols/2.1.1A High hazard flammable gases/LPG (inc. propane-based refrigerant) in cylinders/Group 6:

~~20kg (indoor storage)~~

~~180 kg (outdoor storage)~~

600kg Total Storage Quantity, providing indoor storage is no more than four 45kg cylinders.

- (ix) **accept** the submission of **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.

- (x) **accept** in part the submission of **Mercy Hospital (PC-13-31/a)** that the thresholds for the Group 1 zone are too low in that the threshold of Acetylene Class 2.1.1A shall be increased to 1kg (deletions ~~scored out~~, additions underlined):

Under Gases and aerosols/2.1.1A High hazard flammable gases/Acetylene/Group 1

~~0~~

1kg

- (xi) **accept** all other changes to Table 17.1: Class 2 Thresholds as notified.

### Reasons for Decision

- (i) The Committee considers that the replacement of the indoor and outdoor storage limits with Total Storage Quantities safely recognises the requirements of businesses outside of the residential zone, and will provide for the individual operating needs of those activities outside of the residential zones.
- (ii) The Committee accepts that increasing the limit to reflect the HSNO limits for factories and warehouses, by allowing the storage and use of 45kg cylinders, will provide for the everyday operation of non-residential activities within the non-residential zones.
- (iii) The Committee considers that it is appropriate to change the reference to Class 2.1.1 to refer to flammable gases.

### 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
<b>Wenita Forest Products (PC-13-28)</b>	That the proposed thresholds for Petrol 3.1A and Diesel 3.1D be supported.	
<b>Mr Tony Parata (PC-13-30/d)</b>	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.	<b>Federated Farmers of New Zealand (FS-1)</b> and <b>Horticulture New Zealand (FS-3)</b> supports this submission.
<b>Chemsafety Limited (PC-13-41/g)</b>	That the plan be amended to ensure consistency between the thresholds for Classes 3.1B and 3.1C.	<b>Mercy Hospital Dunedin Limited (FS-2)</b> and <b>Horticulture New Zealand (FS-3)</b> supports this submission in part.

Submitter	Decision Sought	Further Submission
<b>Port Otago Limited (PC-13-29/a)</b>	<p>That the threshold for Class 3.1B be amended to provide for 1500 litres in containers of up to 20 litres where a test location certificate is held within the Port and Industry zones .</p> <p>That the 2000 litre allowance for 3.1A Petrol plus 3.1B – cumulative total limit in the Campus Zone and Rural / Rural Residential zone be extended to include Group 6 Port Zone and Industry Zones.</p>	
<b>University of Otago (PC-13-29)</b>	That the threshold for Class 3.1C be reworded to provide for 450 litres in approved HSNO type stores for the Group3: Campus Zone.	

## Discussion

**Mr Alec Cassie** on behalf of **Wenita Forest Products (PC-13-28)** supports the proposed thresholds for Petrol 3.1A and Diesel 3.1D.

**Mr Tony Parata (PC-13-30/d)** believes that the thresholds for above ground fuel storage within the Rural Zone should be removed, as this activity is controlled by the HSNO Approved Practice Guide Safe Above Ground Storage on Farms (October 2010 version 3). **Mr Parata's** submission is supported by **Federated Farmers of New Zealand (FS-1)** and **Horticulture New Zealand (FS-3)**. The Committee notes that these submissions are addressed in Section 6.8 of this decision.

**Chemsafety Limited (PC-13-41/g)** considers that as the thresholds are written, it would be permissible to store 450L Class 3.1B in a HSNO type store, but consent would be required for the same storage of a less flammable Class 3.1C. **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. It is agreed that the proposed Class 3.1 thresholds are unbalanced and that the threshold for Class 3.1C should be raised accordingly.

The changes, proposed by the **University of Otago (PC-13-29)** as they relate to 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 Class 3.1C in the Group 3: Campus Zone, are acceptable.

**Port Otago (PC-13-29/a)** note that the maximum quantities of Class 3.1 B liquids they currently hold are in the order of 1200-1300L and stored in maximum of 20L drums. **Port Otago** request that this be addressed by making an addition to Table 17.1 "Port and Industry zones are permitted to hold 1500 litres in containers of up to 20 litres where a test location certificate is held."

The Committee is satisfied that this could be accommodated for the Group 6: Port Zones but given the varied nature of activities found within the Industrial Zones within the City and the various neighbouring zones to industrial, they are reluctant to extend this volume to the Industrial Zone.

**Port Otago** also requested that the 2000 litre allowance for 3.1A Petrol plus 3.1B – cumulative total limit in the Campus Zone and Rural / Rural Residential zone would be extended to the Group 6: Port zone. Alternatively, "**\*1500 litres 3.1A Petrol plus**

**3.1B – cumulative total limit in approved HSNO ‘Type’ store”** would also be acceptable to **Port Otago**, if applied to the Group 6 Port Zone and Industry Zones.

### **Decision PC-13/6.12**

The Committee's decision is to:

- (i) **accept** the submission of **Mr Alec Cassie** for **Wenita Forest Products (PC-13-28)** in that the thresholds for Petrol 3.1A and Diesel 3.1D be supported.
- (ii) **accept** the submission of **Mr Tony Parata (PC-13-30/d)** and the further submissions of **Federated Farmers of New Zealand (FS-1)** and **Horticulture New Zealand (FS-3)** that the above ground storage of fuel within the Rural Zone should not be subject to resource consent requirement. See Recommendation PC-13/6.6(iv), in section 6.6 of this report, for the recommended change to Rule 17.5.1 to provide for above ground fuel storage as a permitted activity in the Rural Zone.
- (iii) **accept** the submissions of **Ms Chemsafety Limited (PC-13-41/g)** and **University of Otago (PC-13-29)** and the further submissions of **Mercy Hospital (FS-2)** and **Horticulture New Zealand (FS-3)** that the threshold for Class 3.1C be raised to 450L to be commensurate with the threshold for Class 3.1B. In consequence, it is recommended that Table 17.1 be amended as follows:

Under Flammable Liquids (stored above ground in containers with individual capacity  $\leq 450$  litres)/Class 3.1C/Groups 2 and 4-7:

~~250-litres~~

- 10 litres (any storage).
- 250 litres in Dangerous Goods cabinet approved to AS 1940.
- 450 litres in approved HSNO ‘Type’ stores.
- Large scale retail activities only: 1500 litres in containers of up to 5 litres

Under Flammable Liquids (stored above ground in containers with individual capacity  $\leq 450$  litres)/Class 3.1C/Group 3:

~~450-litres~~

- 10 litres (any storage).
- 250 litres in Dangerous Goods cabinet approved to AS 1940.
- 450 litres in approved HSNO ‘Type’ stores.
- Large scale retail activities only: 1500 litres in containers of up to 5 litres.

- (iv) **accept in part** the submission of **Port Otago Limited (PC-13-29/a)** that threshold for Class 3.1B be amended to provide for 1500 litres in containers of up to 20 litres where a test location certificate is held within the Port and Industry zones in that the threshold shall be increased as it relates to the Group 6 Port Zone only.

Under Flammable liquids (stored above ground in containers with individual capacity  $\leq 450$  litres): 3.1B Liquid: High hazard (FP<23°C, IBP>35°C): All – e.g. acetone, paint spray thinners, pure alcohol

Insert: Group 6: Port zones are permitted to hold 1500 litres in containers of up to 20 litres where a test location certificate is held.

## Decision PC-13/6.12

The Committee's decision is to:

- (v) **reject in part** the submission of **Port Otago Limited (PC-13-29/a)** that threshold for Class 3.1B be amended to provide for 1500 litres in containers of up to 20 litres where a test location certificate is held within the Port and Industry zones in that the proposed threshold shall not be increased as it relates to the Group 2: Industry Zone only.

- (vi) **accept** the submission of **Port Otago Limited (PC-13-29/a)** that the 2000 litre allowance for 3.1A Petrol plus 3.1B – cumulative total limit in the Campus Zone and Rural / Rural Residential zone be extended to the Group 6: Port zone.

Under Flammable liquids (stored above ground in containers with individual capacity ≤450 litres): 3.1A Petrol plus 3.1B: Petrol plus any 3.1B substance – cumulative total limit:

Group 6: Port Zone

~~50 litres (any storage except metal drums).~~

~~250 litres in Dangerous Goods cabinet approved to AS 1940.~~

~~420 litres in approved HSNO 'Type' stores.~~

2000L

- (vii) **reject** the submission of **Port Otago Limited (PC-13-29/a)** that " **1500 litres 3.1A Petrol plus 3.1B – cumulative total limit in approved HSNO 'Type' stores**" be permitted within the Group 6: Port Zone and Group 2: Industry Zone.

Under Gases and aerosols/2NH/Group 3:

500 litres of non-flammable, non-toxic cryogenic liquids stored in accordance with AS1894:1997.

Under Flammable Liquids (stored above ground in containers ≤450 litres)/Class 3.1C/Group 3:

~~450 litres~~

- ~~10 litres (any storage).~~
- ~~250 litres in Dangerous Goods cabinet approved to AS 1940.~~
- ~~450 litres in approved HSNO 'Type' stores.~~
- ~~Large scale retail activities only: 1500 litres in containers of up to 5 litres.~~

## Reasons for Decision

- (i) The thresholds are proposed in the plan change and provide an adequate volume for reasonable forestry activity.
- (ii) As discussed in section 6.6 of this report, it is accepted that HSNO provides clear, in-depth and detailed guidance in relation to above-ground fuel storage, and that within less sensitive environments, such as the Rural Zone, adherence to this guidance will ensure operators of rural activities meet their obligations.



### Reasons for Decision

- (iii) It is unreasonable to require a higher threshold for a less flammable substance of 3.1.1C and, as such, the thresholds should be amended to be equal to Class 3.1.1B.
- (vi) Activities within the Group 6: Port Zone are well regulated and, as such, it is acceptable that users of Class 3 hazardous substances within this group area have similar thresholds as other well-regulated users, such as, those within the Campus Zone.

### 6.13 TABLE 17.1 – CLASS 4 THRESHOLDS

Submitter	Decision Sought
University of Otago (PC-13-29)	That the thresholds for Class 4.1.3A-C be raised to 5kg included in Table 17.1 be amended as they relate to the Group 3: Campus Zone.

### Discussion

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 that the volumes, proposed by the University of Otago for the Group 3: Campus Zone, are acceptable. No other submissions were received in relation the changes to the Table 17.1: Class 4 Thresholds as notified.

### Decision PC-13/6.13

The Committee's decision is to:

- (i) **accept** the submission of the University of Otago (**PC-13-29**) as it relates to the thresholds for Class 4.1.3A-C. In consequence, it is recommended that the following changes be made to Table 17.1 (deletions ~~scored out~~, additions underlined):  
  
Under Flammable Solids/Class 4.1.3A-C/Group 3:  
  
*θ 5kg*
- (ii) **accept** all other changes to Table 17.1: Class 4 Thresholds as notified.

### Reasons for Decision

- (i) The Committee recognises that University of Otago is a predominant occupier of the Campus Zone. The Committee believes that they are a responsible user of hazardous substances and all hazardous substances under their control are closely monitored. The reasons given by the University of Otago for the proposed increase is considered valid and will enable the University to continue their reasonable everyday operations. The Committee note that residential activity in any part of the Campus zone will have to meet the Group1: Residential Zone thresholds, regardless of any other activity occurring on the site.

## Reasons for Decision

- (ii) The Committee notes that no other submissions were received in relation to the changes proposed for Table 17.1- Class 4 Thresholds as notified.

## 6.14 TABLE 17.1 – CLASS 5 THRESHOLDS

Submitter	Decision Sought	Further Submission
<b>Chemsafety Limited (PC-13-41/h)</b>	<p>That Classes 5.1.1A-C be separated into different classes and develop threshold levels for each class based on the level of risk.</p> <p>That Classes 5.2A-G be separated into different classes and develop threshold levels for each class based on the level of risk.</p> <p>That thresholds for Class 5.1.2A Nitrous Oxide be set to provide for industrial and commercial use.</p>	<b>Mercy Hospital Dunedin Limited (FS-2)</b> and <b>Horticulture New Zealand (FS-3)</b> support this submission in part.
<b>Mercy Hospital Dunedin Limited (PC-13-31/a)</b>	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

**Chemsafety Limited (PC-13-41/h)** considers that Classes 5.1.1A-C Oxidising Liquids and Solids encompasses a very broad range of hazards within a single threshold band. **Chemsafety Limited** notes that residential properties might conceivably hold 20kg or 40kg containers of calcium hypochlorite (pool chlorine), and considers that it is anomalous that Rural zones have no thresholds for these classes.

The Committee notes that the Rural Zone has a threshold of 200m<sup>3</sup> for oxygen and a zero threshold for nitrous oxide and chlorine.

Similarly, with regard to Classes 5.2A-G Organic Peroxides, **Chemsafety Limited** notes that this threshold category covers a very wide range of hazards, from 5.2A which are so unstable they are not permitted to be transported, to 5.2G which does not require a location certificate for any quantity.

**Chemsafety Limited** also notes that, in respect of Class 5.1.2A Nitrous Oxide, as the rule is written any hospitality organisation using nitrous oxide canisters for whipping cream would require resource consent.

**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.

**Mercy Hospital (PC-13-31/a)** contested the thresholds for the threshold limits within the Group 1: Residential zone. The Committee considered the threshold for Oxygen - Class 5.1.2A Gases within the Group 1: Residential Zone did appear to be too low, for

medical facilities in general, to under take their day to day operations and, as such, they considered that the same exemption which applies to Nitrous Oxide- Class 5.1.2A Gases could be applied to Oxygen also.

No other submissions were received in relation to the changes to the Table 17.1: Class 5 Thresholds as notified.

#### **Decision PC-13/6.14**

The Committee's decision is to:

- (i) **reject in part** the submission of **Chemsafety Limited (PC-13-41/h)** and the further submissions of **Mercy Hospital (FS-2)** and **Horticulture New Zealand (FS-3)** that Classes 5.1.1A-C be separated into different classes and threshold levels developed for each class based on the level of risk.
- (ii) **reject in part** the submission of **Chemsafety Limited (PC-13-41/h)** and the further submissions of **Mercy Hospital (FS-2)** and **Horticulture New Zealand (FS-3)** that Classes 5.2A-G be separated into different classes and thresholds levels developed for each class based on the level of risk.
- (iii) **accept in part** the submission of **Chemsafety Limited (PC-13-41/h)** and the further submissions of **Mercy Hospital (FS-2)** and **Horticulture New Zealand (FS-3)** that thresholds for Class 5.1.2A Nitrous Oxide be set to provide for industrial and commercial use. In consequence, it is recommended that Table 17.1 be amended as follows (addition underlined):  
  
*Oxidising substances/Class 5.1.2 Gases/Nitrous oxide (Except as stored and used in accordance with HSNO requirements within medical facilities)/Group 2:*  
  
*30 x 8-gram nitrous oxide cartridges for catering purposes only.*
- (iv) **accept** in part the submission of **Mercy Hospital (PC-13-31/a)** in that medical facilities shall be exempt from complying with the thresholds for Oxidising substances/Class 5.1.2 Gases/Oxygen in any Zone Group. In consequence, it is recommended that Table 17.1 be amended as follows (addition underlined):  
  
*Oxidising substances/Class 5.1.2 Gases/Oxygen (Except as stored and used in accordance with HSNO requirements within medical facilities)*
- (v) **accept** all other changes to Table 17.1: Class 5 Thresholds as notified.

#### **Reasons for Decision**

- (i) The Committee sought advice from the Council's Technical Expert who reminded the Committee that Class 5 substances were oxidisers that have similar effects effect which can be triggered by the self accelerating decomposition temperature. The Council's Technical Expert advised that while further separation of Classes 5.1.1A-C and 5.2A-G based on risk is possible, to individualise each substance could be onerous and that the benefit may be negligible. The Committee accepts this advice and decided not to further separate Classes 5.1.1A-C and 5.2A-G.

### Reasons for Decision

- (ii) The Committee acknowledges that small amounts of nitrous oxide are used within the catering industry for whipping cream. Given the small volumes typically stored, it is appropriate that some allowance is given for this industry. Any volumes of nitrous oxide required for catering purposes greater than 30 x 8-gram nitrous oxide cartridges will require resource consent.
- (iii) The Committee believes that the proposed threshold for oxygen is too low for the day-to-day operation of medical facilities and, as such, consider it appropriate that medical facilities be exempt from the Class 5.1.2A - Oxygen threshold within Table 17.1.
- (iv) The Committee notes that no other submissions were received in relation to the changes proposed for Table 17.1- Class 5 thresholds as notified.

### 6.15 TABLE 17.1 – CLASS 6 THRESHOLDS

Submitter	Decision Sought	Further Submission
<b>Holcim (New Zealand) Limited (PC-13-37/f)</b>	That the thresholds for Class 6.4A - Eye Irritants be amended so that Cement, Hydrated Lime and Burnt Lime are separated out and the following thresholds are given Group 1: 80kg, Group 2: 50 tonne, Group 3: 1000kg; Group 4: 30 tonne, Group 5: 30 tonne, Group 6; 100 tonne and Group 7: 1000kg.	<b>Port Otago Limited (FS-4)</b> supports this submission.
<b>Holcim (New Zealand) Limited (PC-13-37/g)</b>	That the thresholds for Class 6.5A and B - Respiratory and contact sensitizers be amended so that Cement is separated out and the following thresholds are given Group 1: 80kg, Group 2: 50 tonne, Group 3: 1000kg; Group 4: 30 tonne, Group 5: 30 tonne, Group 6; 100 tonne and Group 7: 1000kg.	<b>Port Otago Limited (FS-4)</b> supports this submission.
<b>Chemsafety Limited (PC-13-41/i)</b>	That provision be made for toxic gases such as Hydrochloric Acid.  That the thresholds for Classes 6.3 and 6.4 align with 6.1D and 6.1E.	<b>Mercy Hospital Dunedin Limited (FS-2)</b> and <b>Horticulture New Zealand (FS-3)</b> supports this submission in part.
<b>University of Otago (PC-13-29)</b>	That the thresholds for 6.1A-C included in Table 17.1 be amended to 100L or 100kg within the Group 3: Campus Zone.	

### Discussion

**Holcim (New Zealand) Limited (PC-13-37/f and 37/g)**, supported by **Port Otago Limited (FS-4)**, seeks changes to the thresholds contained within Table 17.1 as they relate to Class 6.4A - Eye Irritants and Class 6.5A and B - Respiratory and contact sensitizers, in order to reduce the restrictiveness of controls on cement, hydrated lime and burnt lime. The Committee agrees in principle with the limits suggested by Holcim,

however, in the case of cement they consider 80kg for cement to be too low and propose a higher threshold.

In respect of Classes 6.1A-C – Acutely Toxic, **Chemsafety Limited (PC-13-41/i)** notes that there is no provision made for toxic gases. As the clause stands, they note, that at least one very commonly used substance being Hydrochloric Acid – spirits of salt which is commonly available in hardware stores and a class 6.1B toxic substance would not be permitted in residential areas except for as provided for by proposed rule 17.5.1(i). As such many trade users and suppliers would require resource consent.

With regard to Classes 6.3A & B Skin Irritant and 6.4A Eye Irritant, **Chemsafety Limited** notes that substances of these classes have minor adverse effects which are reversible and they consider that it would be more appropriate for the thresholds for these substances to match those of 6.1D and E and have no threshold. An example of this would be common salt (Sodium Chloride) is classified as 6.1E and 6.4A. The Committee are mindful of the use common salt has within rural and residential environments and, as such, has reconsidered the thresholds as they apply to salt.

**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.

The changes, requested 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.

No other submissions were received in relation the changes to the Table 17.1: Class 6 Thresholds as notified.

#### **Decision PC-13/6.15**

The Committee's decision is to:

- (i) **accept** in part the submission of **Holcim (New Zealand) Limited (PC-13-37/f)** and the further submission of **Port Otago Limited (FS-4)** that the Table 17.1 thresholds for Class 6.4A - Eye Irritants and for Class 6.5A and B - Respiratory and contact sensitisers be amended as follows (additions underlined):

Under Toxic Substances/6.4A Eye irritant and 6.5A&B Respiratory and Contact Sensitisers:

Insert new category – Cement, Hydrated Lime and Burnt Lime

Group 1 – 80kg; Group 2 – 50 tonne; Group 3 – 1000kg; Group 4 – 30 tonne; Group 5 – 30 tonne; Group 6 – 100 tonne; Group 7 – 1000kg

- (ii) **reject** in part the submission of **Holcim (New Zealand) Limited (PC-13-37/g)** and the further submission of **Port Otago Limited (FS-4)** that the Table 17.1 thresholds for Class 6.5A and B - Respiratory and contact sensitisers be 80kg for the Group 1: Residential Zone and instead insert as follows (additions underlined):

Under Toxic Substances/6.4A Eye irritant and 6.5A&B Respiratory and contact sensitisers:

Insert new category – Cement, Hydrated Lime and Burnt Lime

Group 1 – 400kg

## Decision PC-13/6.15

The Committee's decision is to:

- (iii) **reject in part** the submission by **Chemsafety Limited (PC-13-41/i)** and the further submissions of **Mercy Hospital (FS-2)** and **Horticulture New Zealand (FS-3)** that provision be made for toxic gases.

- (iv) **accept in part** the submission by **Chemsafety Limited (PC-13-41/i)** and the further submissions of **Mercy Hospital (FS-2)** and **Horticulture New Zealand (FS-3)** that the thresholds for Classes 6.3 and 6.4 align with 6.1D and 6.1E. In consequence, it is recommended that Table 17.1 be amended as follows (deletions ~~scored out~~, additions underlined):

Under Toxic substances/6.1D&E/Groups 1-7:

~~No thresholds~~

Group 1 – 1kg; Group 2 – 200kg, Group 3 – 1000kg, Group 4 – 200kg, Groups 5-7 – 1000kg.

- (v) **accept in part** the submission by **Chemsafety Limited (PC-13-41/i)** that provision be made for 6.1E and 6.4A - Sodium Chloride.

Under Toxic substances/6.1D&E/Groups 1 and 4:

Sodium Chloride (Salt) - Group 1 5kg and Group 4 1000kg

Under Toxic substances/6.4A/Groups 1 and 4:

Sodium Chloride (Salt) - Group 1- 5kg and Group 4 - 1000kg

- (vi) **reject in part** the submission by **Chemsafety Limited (PC-13-41/i)** and the further submissions of **Mercy Hospital (FS-2)** and **Horticulture New Zealand (FS-3)** that no thresholds be set for Classes 6.3 and 6.4, similar to 6.1D and 6.1E.

- (vii) **accept in part** the submission by **Chemsafety Limited (PC-13-41/i)** and the further submissions of **Mercy Hospital (FS-2)** and **Horticulture New Zealand (FS-3)** that thresholds for Classes 6.3 and 6.4, 6.1D and 6.1E be similar.

- (viii) **accept** the submission by the **University of Otago (PC-13-29)** in it requests that the thresholds set for 6.1A-C be raised to 100L or 100kg.

In consequence, it is recommended that the following change be made to Table 17.1 (deletions ~~scored out~~, additions underlined):

Under Toxic substances/6.1A-C/Group 3: 100L or 100kg

- (ix) **accept** all other changes to Table 17.1: Class 6 Thresholds as notified.

## Reasons for Decision

- (i) The Committee accepts that Cement, Hydrated Lime and Burnt Lime should be separated out from Class 6.4A - Eye Irritants and Class 6.5A and B - Respiratory and Contact Sensitisers because of the different risks associated with these substances.

## Reasons for Decision

- (ii) The Committee accepts that the quantities proposed for Cement, Hydrated Lime and Burnt Lime are appropriate given the general use and typical bulk storage of the products but have determined to increase the threshold for those substances to 400kg as this is a more realistic volume for everyday use.
- (iii) The Committee understands that in respect of Classes 6.3A & B Skin Irritant and 6.4A Eye Irritant, the substances of these classes have similar adverse effects to those substances within Class 6.1D and E and as such the thresholds for Class 6.1D and E should be raised to match the thresholds set for Classes 6.3A & B Skin Irritant and 6.4A Eye Irritant.
- (iv) The Committee acknowledges that the level of risk for Classes 6.3 and 6.4 are similar to 6.1D and 6.1E and as such they should have similar thresholds. However, the Council's Technical Expert is cautious and recommends to place the thresholds suggested for Classes 6.3 and 6.4 on 6.1D and 6.1E, with the exception that the thresholds shall be raised to 2000 kg or 2000 litres for Group 2 and 4.
- (v) The Committee accepts that greater provision for Sodium Chloride (common salt) needs to be provided for within the Residential and Rural zones.
- (vi) The Committee recognises that the University of Otago is a predominant occupier of the Campus Zone. The Committee accepts 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. The Committee acknowledge that any sites which support residential activity must comply with the Group 1: Residential Zones, regardless of any other activity on the site, except for within the Group 4: Rural/Rural Residential zone, where Group 1: Residential Zone thresholds apply to the residential dwelling and curtilage only.
- (vii) The Committee notes that no other submissions were received in relation to the changes proposed for Table 17.1- Class 6 thresholds as notified.

## 6.16 TABLE 17.1 – CLASS 8 THRESHOLDS

Submitter	Decision Sought	Further Submission
<b>Holcim (New Zealand) Limited (PC-13-37/h)</b>	That the thresholds for Class 8.2A-C Substances Corrosive to Skin be amended so that Cement, Hydrated Lime and Burnt Lime are separated out and the following thresholds are given Group 1: 80kg, Group 2: 50 tonne, Group 3: 1000kg; Group 4: 30 tonne, Group 5: 30 tonne, Group 6; 100 tonne and Group 7: 1000kg.	<b>Port Otago Limited (FS-4)</b> supports this submission.
<b>Holcim (New Zealand) Limited (PC-13-37/i)</b>	That the thresholds for Class 8.3A Substances Corrosive to the Eye be amended so that Cement, Hydrated Lime and Burnt Lime are separated out and the following thresholds are given Group 1: 80kg, Group 2: 50 tonne, Group 3: 1000kg; Group 4: 30 tonne, Group 5: 30 tonne, Group 6; 100 tonne and Group 7: 1000kg.	<b>Port Otago Limited (FS-4)</b> supports this submission.

Submitter	Decision Sought	Further Submission
<b>Chemsafety Limited (PC-13-41/j)</b>	<p>That Classes 8.2A-C – Substances Corrosive to the Skin be separated into different classes and develop threshold levels for each class based on the level of risk.</p> <p>That Hydrofluoric Acid is a disingenuous example to include in for Class 8.3A in Table 17.1 and should be removed.</p> <p>That the duplication of the controls for Classes 8.2 and 8.3A be recognised.</p>	<b>Mercy Hospital Dunedin Limited (FS-2)</b> and <b>Horticulture New Zealand (FS-3)</b> support this submission in part.
<b>University of Otago (PC-13-29)</b>	That the threshold for Class 8.3A be raised to 1000L to ensure consistency with Classes 8.2A-C.	

## Discussion

**Holcim (New Zealand) Limited (PC-13-37/h and 37/i)**, supported by **Port Otago Limited (FS-4)**, seeks changes to the thresholds contained with Table 17.1 as they relate to Class 8.2A-C Substances Corrosive to Skin and to Class 8.3A Substances Corrosive to the Eye, in order to reduce the restrictiveness of controls on cement, hydrated lime and burnt lime. The Committee agrees in principle with the limits suggested by Holcim, however, in the case of cement they consider 80kg for cement to be too low and propose a higher threshold.

In respect of Classes 8.2A-C Substances Corrosive to the Skin, **Chemsafety Limited (PC-13-41/j)** notes that no provision has been made for corrosive gases. They consider that quantities should be provided for in either kilograms or litres. As stated for other classes, this grouping of all 8.2 into one category covers too broad a range of hazards. Substances that are 8.2A skin corrosive are extremely high hazard causing severe burns with short exposures.

With regard to Class 8.3A Substances Corrosive to the Eye, **Chemsafety Limited** considers that this particular threshold is vastly inconsistent with the HSNO regulations. Most if not all hazardous substances that are classified as an 8.2 Skin Corrosive are also classed as 8.3A Eye Corrosive and, therefore, the thresholds for 8.2 become redundant. Under HSNO controls, thresholds applied to Class 8.3A are the same as those applied to Class 8.2C. A very large range of industrial acids, alkalis and cleaning products will be covered by this classification.

**Chemsafety Limited** considers that Hydrofluoric Acid is a disingenuous example to use for this classification as it is the 6.1 acute toxicity and high hazard skin corrosion that are the more significant hazards.

**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.

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. No other submissions were received in relation the changes to the Table 17.1: Class 8 Thresholds as notified.



## Decision PC-13/6.16

The Committee's decision is to:

- (i) **accept** in part the submission of **Holcim (New Zealand) Limited (PC-13-37/h)** and the further submission of **Port Otago Limited (FS-4)** that the Table 17.1 thresholds for Class 8.2A-C Substances Corrosive to Skin and 8.3A Substances Corrosive to the Eye be amended as follows (additions underlined):

Under Corrosives/8.2A-C Substances corrosive to the skin and 8.3A Substances corrosive to the eye:

Insert new category – Cement, Hydrated Lime and Burnt Lime

Group 2 – 50 tonne; Group 3 – 1000kg; Group 4 – 30 tonne; Group 5 – 30 tonne; Group 6 – 100 tonne; Group 7 – 1000kg

- (ii) **accept** the submission of **Holcim (New Zealand) Limited (PC-13-37/i)** and the further submission of **Port Otago Limited (FS-4)** that the Table 17.1 thresholds for 8.2A-C Substances Corrosive to Skin and Class 8.3A Substances Corrosive to the Eye be amended as follows (additions underlined):

Under Corrosives/8.2A-C Substances Corrosive to Skin and 8.3A Substances corrosive to the eye:

Insert new category – Cement, Hydrated Lime and Burnt Lime

Group 1 – 400kg

- (iii) **reject in part** the submission of **Chemsafety Limited (PC-13-41/j)** and the further submissions of **Mercy Hospital (FS-2)** and **Horticulture New Zealand (FS-3)** that Classes 8.2A-C – Substances Corrosive to the Skin be separated into different classes and develop threshold levels for each class based on the level of risk.

- (iv) **accept in part** the submission of **Chemsafety Limited (PC-13-41/j)** and the further submissions of **Mercy Hospital (FS-2)** and **Horticulture New Zealand (FS-3)** that the duplication of the controls for Classes 8.2 and 8.3A be recognised and **accept in part** the submission by **Chemsafety Limited (PC-13-41/j)** and the further submissions of **Mercy Hospital (FS-2)** and **Horticulture New Zealand (FS-3)** that Hydrofluoric Acid is a disingenuous example to include in for Class 8.3A in Table 17.1 and should be removed. In consequence, it is recommended that Table 17.1 be amended as follows (deletion ~~scored out~~, additions underlined):

Under Corrosives/Class 8.3A Substances corrosive to the eye/All

Substance heading – ~~All e.g. hydrofluoric acid~~

Group 1 – ~~0~~ 5 litres; Group 2 – ~~5 litres~~ 1000 litres; Group 3 – ~~5 litres~~ 1000 litres; Group 4 – ~~0~~ 1000 litres; Group 5 – ~~0~~ 5000 litres; Group 6 – ~~0~~ 1000 litres; Group 7 – ~~0~~ 1000 litres.

### Decision PC-13/6.16

The Committee's decision is to:

- (v) **accept in part** the submission of the University of Otago (**PC-13-29**) as it relates to the thresholds for 'Class 8.3A.' In consequence, it is recommended that the following changes be made to Table 17.1 (deletions ~~scored out~~, additions underlined):

Under Corrosives/Class 8.3A/Group 3:

~~5 litres~~ 1000 litres

- (v) **accept** all other changes to Table 17.1: Class 8 Thresholds as notified.

### Reasons for Decision

- (i) The Committee accepts that Cement, Hydrated Lime and Burnt Lime should be separated out from Class 8.3A Substances Corrosive to the Eye because of the different risks associated with these substances when compared to other class 8.3.A substances.
- (ii) The Committee accepts that the quantities proposed for Cement, Hydrated Lime and Burnt Lime are appropriate given the general use and typical bulk storage of the products. However, the Committee has determined to increase the threshold for cement to 400kg as this is a more realistic volume for everyday use.
- (iii) The Committee considers that while further separation of classes based on risk is possible, to individualise each substance could be onerous and that the benefit may be negligible.
- (iv) The Committee recognises that under HSNO controls, thresholds applied to Class 8.3A are the same as those applied to Class 8.2C and as such it is determined that the thresholds within the District Plan should be the same for both classes and the threshold should be set at level already identified for Class 8.2A-C.
- (v) The Committee agrees that Hydrofluoric Acid is a disingenuous example to include in for Class 8.3A in Table 17.1 and that reference to this is inappropriate and should be removed.
- (vi) The Committee acknowledges that the University of Otago is the predominant occupier of the Campus Zone. The Committee recognises that they are a responsible user of hazardous substances and all hazardous substances under their control are closely monitored. The reasons given by the University of Otago for the proposed increases are considered valid and will enable the University to continue their reasonable everyday operations.
- (vii) The Committee notes that no other submissions were received in relation to the changes proposed for Table 17.1- Class 8 thresholds as notified.

## 6.17 TABLE 17.1 – CLASS 9 THRESHOLDS

Submitter	Decision Sought	Further Submission
<b>Holcim (New Zealand) Limited (PC-13-37/j)</b>	That the treatment of materials with a 9.1A-D classification be clarified.	
<b>Chemsafety Limited (PC-13-41/k)</b>	That it be recognised that Class 9.3A-C also triggers requirements of Class 6.1.  That the wording relating to Class 9.4A-C be reconsidered.	<b>Mercy Hospital Dunedin Limited (FS-2)</b> and <b>Horticulture New Zealand (FS-3)</b> support this submission in part.

### Discussion

**Holcim (New Zealand) Limited (PC-13-37/j)** seeks clarification on the treatment of materials with a 9.1A-D classification (along with other HSNO classifications). It is agreed that where a substance is Class 9, the substance is always assessed as another class first. As this is the case, the base class threshold should be the primary threshold and, as such, thresholds for Class 9 become redundant and should be used as an assessment matter when considering an application for resource consent. However, when assessing application resource consent, where a substance has an ecotoxics class, the ecotoxicity shall be a matter of discretion. The escape of class 9 substances into the environment is controlled by the Otago Regional Council and reference to this shall be included within the plan user guide.

**Chemsafety Limited (PC-13-41/k)** notes in respect of Class 9.3A-C Terrestrial Vertebrates, it is the case that most substances that are toxic to vertebrates (e.g. mammals) are also toxic to people and, therefore, have a Class 6.1 classification. **Chemsafety Limited** does not seek any changes in respect of Class 9.3A-C. In respect of Class 9.4A-C Terrestrial Invertebrates, **Chemsafety Limited** notes that it does not necessarily follow that most substances that are toxic to invertebrate are also toxic to people, particularly with some ready to use formulations and as such referring the user back to the Class 6 thresholds may not be 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.

No other submissions were received in relation the changes to the Table 17.1: Class 9 Thresholds as notified.

### Decision PC-13/6.17

The Committee's decision is to:

- (i) **accept** the submission of **Holcim (New Zealand) Limited (PC-13-37/d)** in that the treatment of materials with a 9.1A-D classification be clarified in relation to other classes which the substance may also be included in.
- (ii) **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 it is recognised that Class 9.3A-C substances also trigger requirements of Class 6.1.

### 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 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 4<sup>th</sup> 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
<b>Port Otago Limited (PC-13-35/g)</b>	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 the changes to the Rule 17.5.3 – Discretionary Activities (Restricted) as notified.

### Decision PC-13/6.19

It is recommended that the Committee:

- (i) **accept** the submission of **Port Otago Limited (PC-13-35/g)** that a new rule be added to Rule 17.5.3 Discretionary (Restricted) Activities to manage activities that do not comply with Permitted Activity Rule 17.5.1 as follows (deletions ~~scored out~~, additions underlined):  
Rule 17.5.3 – Discretionary Activities (Restricted)  
  
*The storage, use or transportation in aboveground tanks in the Group 6: Port 2 Zone, which does not comply with Permitted activity Rule 17.5.1, at quantities exceeding those permitted under Rule 17.5.1, of HSNO sub-class 3.1A-D liquid petroleum fuels, HSNO class 6 toxic substances, HSNO class 8 corrosive substances, HSNO sub-class 9.1A-D aquatic ecotoxics and HSNO sub-class 9.2A-D soil ecotoxics.*
- (ii) **accept** all other changes to Rule 17.5.3 – Discretionary Activities (Restricted) as notified.

### Reasons for Decision

- (i) The Committee consider the changes to this rule do not impose considerably greater restrictions on Council's ability to assess these activities and, as such, this proposed change is supported.
- (ii) The Committee notes that no other submissions were received in relation to the changes proposed for Rule 17.5.3 Discretionary Activities (Restricted) as notified.

## 6.20 RULE 17.5.4 – DISCRETIONARY ACTIVITIES

### Decision PC-13-6.20

It is the Committee's decision to:

- (i) **accept** the proposed changes to Rule 17.5.4 : Discretionary Activities as notified.

### Discussion

No submissions were received in respect of the change proposed to Rule 17.5.4: Discretionary Activities.

### Reason for Decision

- (i) The Committee notes that proposed changes to Rule 17.5.4: Discretionary Activities were not submitted on and therefore the proposed changes are confirmed without change.

## 6.21 17.6: ASSESSMENT MATTERS

### Discussion

No submissions were received in respect of the change proposed to 17.6: Assessment Matters.

#### Decision PC-13-6.21

It is the Committee's decision to:

- (i) **accept** the proposed changes to 17.6: Assessment Matters as notified.

#### Reason for Decision

- (i) The Committee notes that proposed changes to 17.6: Assessment Matters were not submitted on and therefore the proposed changes are confirmed without change.

## 6.22 SECTION 3: DEFINITIONS

Submitter Name	Submission Summary
<b>Port Otago Limited (PC-13-35/b)</b>	That the definition of "hazardous sub-facility" be amended to include the Port 2 Zone amongst those zones which may use sub-facilities to calculate the permitted thresholds limit.
<b>Port Otago Limited (PC-13-35/c)</b>	<p>That the definition of "hazardous substance" be amended to exclude: hazardous substances in transit; hazardous substances in temporary storage at a transport interchange area; and the loading, unloading and storage of hazardous substances transiting through the port.</p> <p>That hazardous substances in transit or short term storage are exempt from resource consent requirement subject to certain conditions.</p>
<b>Chemsafety Limited (PC-13-41/b)</b>	That the definition of "hazardous substance" be clarified to reference the Hazardous Substance (Minimum Degrees of Hazard) Regulations.
<b>Federated Farmers (PC-13-43/e)</b>	That, unless District Plan rules are altered to provide for the storage and use of agrichemicals, fertilisers and fuel (above and below ground) as permitted activities where relevant HSNO regulations and guidance are complied with (as requested by the submitter in submissions PC-13-43/b to 43/d – see Section 6.8 of this report), the farm scale use and storage of agrichemicals and fertilisers be excluded from the definition of hazardous facilities and therefore be exempt from the hazardous substance rules where the substance is only intended for on-farm use.

### Discussion

**Port Otago Limited (PC-13-35/b)** seeks that the definition of "hazardous sub-facility" be amended to include the Port 2 Zone amongst those zones which may use sub-facilities to calculate the permitted thresholds limit. In addition, **Port Otago Limited** also seek to enable hazardous substances in transit and storage to be permitted and to that end the terms **Transit Depot** and **Hazardous Substance Location** are required to be defined within Section 3 of the District Plan. The above definitions will match those included in the Hazardous Substances (Class 1-5) regulations 2001.

**Chemsafety Limited (PC-13-41/b)** considers that the definition of "hazardous substance" should be amended to recognise that substances may have intrinsic properties such as those listed in the hazardous substance classifications, but may be of a low level that means they are not classified as a hazardous substance under the HSNO Act. Such substances should not be treated as "hazardous substances" for the purposes of the District Plan.

**Port Otago Limited (PC-13-35/c)** seeks that the definition of "hazardous substance" be amended to exclude substances in transit or short term storage; this would effectively make hazardous substances in transit or short term storage a permitted activity. Discussion with the Council's Technical Expert determined that there were adequate controls within HSNO regulations relating to goods in transit and goods within containers which would ensure that hazardous substances were able to be controlled safely. However, rather than altering the definition of "hazardous substance", it is considered more appropriate to amend Rule 17.5.1 Permitted Activities, to render the transit or short term storage of hazardous substances a permitted activity subject to certain conditions. **Port Otago**, when speaking to their submission, suggested that for clarity, definitions regarding Tracked and Non-Tracked substances should be included within Section 3- Definitions.

**Federated Farmers (PC-13-43/e)** seek that, unless District Plan rules are altered to provide for the storage and use of agrichemicals, fertilisers and fuel (above and below ground) as permitted activities where relevant HSNO regulations and guidance are complied with (as requested by the submitter in submissions PC-13-43/b to 43/d – see Section 6.6 of this report), the farm scale use and storage of agrichemicals and fertilisers be excluded from the definition of "hazardous facilities" and therefore be exempt from the hazardous substance rules where the substance is only intended for on-farm use. As discussed in Section 6.6, it is recommended that **Federated Farmers'** submissions PC-13-43/b to 43/d be accepted. Therefore, it is unnecessary to alter the definition as requested by the submitter.

The Committee notes that the S42A report introduced a definition for medical facility to clarify what was meant by the term "medical facility" because of the exemptions which apply to medical facilities in respect of Class 5 gases Oxygen and Acetylene contained in Table 17.1.

#### **Decision PC-13/6.22**

It is recommended that the Committee:

- (i) **accept** the submission of **Chemsafety Limited (PC-13-41/b)** as it requests that the definition of Hazardous Substance be clarified to reference "Hazardous Substance (Minimum Degrees of Hazard) Regulations 2001" as follows (addition underlined):

*Hazardous substance means:*

*(i) any substance, or waste generated by the use of hazardous substances, with one or more of the following intrinsic properties which meets the "Hazardous Substance (Minimum Degrees of Hazard) Regulations:*

...



## Decision PC-13/6.22

It is recommended that the Committee:

- (ii) **accept** the submission of **Port Otago Limited (PC-13-35/b)** as it relates to the inclusion of the Port 2 Zone within those zones which may use sub-facilities to calculate the permitted thresholds limit. In consequence, it is recommended that the definition of Hazardous Sub-Facility be amended as follows (addition underlined):

*Hazardous sub-facility means:*

*any hazardous facility within the Campus, Port 1 and 2, Airport and Industrial 1 Zones and forestry and timber treatment activities in the Rural Zone,*

...

- (iii) **reject in part** the submission of **Port Otago Limited (PC-13-35/c)** as it relates to the exclusion of substances in transit or short term storage from the definition of "hazardous substance". However, activities relating to the transit and storage of hazardous substances are to be added to Rule 17.5.1 Permitted Activities as discussed in Section 6.8 of this decision.

- (vi) **accept in part** the submission of **Port Otago Limited (PC-13-35/c)** that hazardous substances in transit or short term storage are exempt from requiring resource consent and consequently that definitions explaining hazardous substance location and transit depot shall be included as follows (addition underlined):

Section 3: Definitions

*Hazardous Substance Location - as defined by Hazardous Substances (Classes 1 to 5) Regulations 2001.*

*Transit Depot - as defined by Hazardous Substances (Classes 1 to 5) Regulations 2001.*

- (iv) **accept** the submission of **Port Otago Limited (PC-13-35/c)** that hazardous substances in transit or short term storage are exempt from resource consent requirement and consequently that definitions regarding Tracked and Non-Tracked substances should be included as follows (addition underlined):

Section 3 – Definitions

*Tracked Hazardous Substances – as defined by Hazardous Substances (Tracking) Regulations 2001.*

*Non-Tracked Hazardous Substances – as defined by Hazardous Substances (Tracking) Regulations 2001.*

- (v) **reject** the submission of **Federated Farmers (PC-13-43/e)** that the farm scale use and storage of agrichemicals and fertilisers be excluded from the definition of hazardous facilities. However, activities relating to the use and storage of agrichemicals and fertilisers are to be added to Rule 17.5.1 Permitted Activities as discussed in Section 6.8 of this decision.

### Decision PC-13/6.22

It is recommended that the Committee:

- (v) **accept** the change as proposed in the S42A report as it is related to the definition of medical facility as follows (addition underlined):

Section 3 – Definitions

Medical Facility (for the purpose of Table 17.1 only) means any Medical Centre, Dental Clinic, Rest Home, Hospital, Surgery, and Veterinarian Clinic.

- (viii) **accept** the proposed changes to Section 3: Definitions as notified.

### Reasons for Decision

- (i) It is acknowledged that substances may have intrinsic properties such as those listed in the definition but may be of a low level which means they are not classified as a hazardous substance under the HSNO Act. Therefore, it is appropriate that the definition of hazardous substance proposed for the District Plan be amended to refer to a minimum degree of hazard as defined in "Hazardous Substance (Minimum Degrees of Hazard) Regulations 2001".
- (ii) Given the nature of the Port 2 Zone and the typical activities found within the zone, it is reasonable to enable the activities within this zone to use sub-facilities to calculate the permitted thresholds limit.
- (iii) The Committee is comfortable that hazardous substances in transit are considered to be adequately controlled by HSNO which allow a depot storage time of two hours for tracked substances and 72 hours for untracked substances. As discussed in section 6.8 of this decision, the Committee are comfortable with exempting hazardous substances in transit which comply with HSNO regulations. The Committee consider that it is more appropriate to exempt such activities from resource consent requirement via an amendment to the permitted activity Rule 17.5.1, rather than by altering the definition of "hazardous substance".
- (iv) Section 6.8 of this report recommends that the storage and use of agrichemicals, fertilisers and fuel (above and below ground) be provided for as permitted activities in the Rural Zone where relevant HSNO regulations and guidance are complied with. Therefore, it is unnecessary to alter any District Plan definition in order to avoid resource consent requirement for these activities.
- (v) The Committee accepts that for the purpose of clarity there was need to define the term "medical facility" because of the exemptions which apply to medical facilities in respect of Class 5 gases Oxygen and Acetylene contained in Table 17.1.

## 6.23 SECTION 10: INDUSTRY

No submissions were received in respect of the change proposed to Section 10: Industry.

### Decision PC13/6.23

#### It is the Committee's decision to:

- (i) **accept** the proposed change to Section 10: Industry as notified

#### Reason for the decision

- (i) The Committee notes that the proposed changes to Section 10: Industry were not submitted on and therefore, the proposed changes as notified are confirmed.

## 6.24 CLAUSE 16(2) OF SCHEDULE 1 OF THE RESOURCE MANAGEMENT ACT 1991

During deliberations the Committee became concerned about the lack of clarity of the intention of the plan change that split or mixed use sites used for residential purposes and for storage or use of hazardous substances shall comply with the Group 1: Residential Zones thresholds.

The Committee considers it reasonable that in such cases where there is residential use, other users of the site obtain resource consent before storing, transporting or using hazardous substances. If a site is used for storing, transporting or using hazardous substances then any use of the site for residential use will similarly need resource consent. To ensure clarity of this intention the Committee resolve to introduce a user note to that effect pursuant to Clause 16(2) of the First Schedule of the Resource Management Act 1991.

### Decision PC/13-6.24

- (i) accept the following User Note pursuant to Clause 16(2) of the First Schedule of the Resource Management Act 1991 (addition underlined):

10) Where any site contains residential activity then Group 1: Residential Zones thresholds detailed in Table 17.1 apply, except for within the Group 4: Rural/Rural Residential zone where Group 1: Residential Zone thresholds apply to the residential dwelling and curtilage only.

#### Reasons for Decision

- (i) The Committee believe the introduction of User Note 10 will clarify the intention of the plan and will have only minor effect.

**Dunedin City Council Hearings Committee**



Councillor Colin Weatherall (Chair)



Councillor Andrew Noone



Councillor Kate Wilson

Dated: 3 July 2012