

**Officer's Report on  
Plan Change 13: Hazardous Substances  
for consideration under the First Schedule of the  
Resource Management Act 1991**

**TO:** Hearing Committee

**FROM:** Planner (Policy)

**DATE:** 14 May 2012

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**APPENDIX A:** SUMMARY OF SUBMISSIONS

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**APPENDIX C:** AMENDED PLAN CHANGE PROVISIONS AS RECOMMENDED IN THE OFFICER'S REPORT

## 1.0 STATUS OF THIS REPORT

This report identifies the broad provisions of proposed District Plan Change 13: Hazardous Substances, discusses the issues that were raised in submissions on the plan change, summarises the decisions sought, and makes recommendations on each submission. The report has been prepared by the Reporting Officer on the basis of information available prior to the plan change hearing, and is for the specific purpose of assisting the Committee in the hearing and deliberation process.

## 2.0 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 consistent 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.

All of the submissions and further submissions are considered in this report. Summaries of submissions and of further submissions are attached to the report as Appendices A and B. Appendix C gives details of the amendments to the plan change that are recommended in response to submissions.

### **3.0 PROCESS HISTORY**

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

The District Plan 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 substance, and the quantities beyond which resource consent is required for the storage, use or disposal of each class of substance. 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.

District Plan Section 17 Hazards and Hazardous Substances contains provisions to manage activities that involve the use of hazardous substances. 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 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.

#### **3.2 Consultation**

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

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

### **3.3 Proposed District Plan Hazardous Substance Provisions**

Proposed Plan Change 13 resolves 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 other 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 consistency 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.

### **3.4 Notification and Hearing**

On 12 April 2011 the Planning and Environment Committee approved the initiation of work on a plan change to review District Plan Section 17: Hazards, Hazardous Substances and Earthworks. The Planning and Environment Committee approved the notification of Plan Change 13: Earthworks, and the associated Section 32 report, on 6 September 2011. Plan Change 13 was notified on 15 October 2011. The closing date for further submissions was 5 March 2012.

#### 4.0 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.

However, in the event that the Committee decides, under Clause 8 (1), not to accept one or more of the further submissions for consideration, all further references in this report to that submission/those submissions should be disregarded.

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

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

#### **Recommendation PC-13/4.0**

It is recommended that the Committee:

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

#### **Reasons for Recommendation**

- (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.

## 5.0 OVERVIEW

To facilitate the summary of submissions on this plan change and to ensure that all the issues raised in submissions are examined, 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 included in the relevant sections of the report. Submissions on plan change provisions will be considered in the following order:

- Whole of plan change
- Section 3: Definitions
- Objective 17.2.2
- Policy 17.3.8
- Methods 17.4.1-2 and 17.4.5-7
- Rule 17.5.1 Permitted Activities
- Table 17.1 – General
- Table 17.1 – Campus Zone
- Table 17.1 – Port 2 Zone
- Table 17.1 – Class 1 Thresholds
- Table 17.1 – Class 2 Thresholds
- Table 17.1 – Class 3 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)
- Assessment Matter 17.6.14

## 6.0 ASSESSMENT OF SUBMISSIONS

### 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) support this submission in part.</b>
<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.	



Submitter Name	Decision Sought	Further Submissions
<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) support this submission in part.</b></p> <p><b>Horticulture New Zealand (FS-3) support this submission.</b></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>	<p>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.</p>	<p><b>TrustPower Limited (FS-5) supports this submission.</b></p>
<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) support this submission in part.</b></p> <p><b>Horticulture New Zealand (FS-3) supports this submission.</b></p>
<b>Chemsafety Limited (PC-13-41/a)</b>	<p>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.</p>	<p><b>Mercy Hospital (FS-2) supports this submission.</b></p>
<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) support this submission in part.</b></p> <p><b>Horticulture New Zealand (FS-3) support this submission.</b></p>

## **Assessment**

**Mercy Hospital Dunedin Limited (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. In addition, **Mercy Hospital** felt they should have been consulted with during the drafting of the proposed plan change prior to notification. This is a valid concern and their omission from those consulted is regrettable. **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.

**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 there is no need for most of the regulations proposed by this plan change. **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.

**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.

Similarly, **Port Otago Limited (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 Limited** 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 Dunedin Limited (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 6.6).

**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; 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).

**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.

It is noted 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 it is recommended that the storage and use of these become a permitted activity 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.

It should be noted that HSNO and RMA legislation are designed to work together and it was never the intention that HSNO stand alone as the sole control for hazardous substances. The HSNO Act places minimum controls on hazardous substances that are specific to their hazards and that cover their entire lifecycle. These controls are the same irrespective of location, and constitute minimum performance requirements that have to be met under the Resource Management Act (RMA).

The MfE advisory manual *Acting Together: HSNO and the RMA* states that:

*Both the HSNO Act and the RMA work together to protect human health and the environment from the effects of hazardous substances. 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 HSNO controls are the bottom line, while controls under the RMA may be stricter or different, to take into account local factors. The RMA is the main legislation that controls the effects of hazardous facilities on the environment on a site-by-site basis.*

The following table (also taken from the MfE advisory manual) explains the key differences between the HSNO and RMA approaches:

<b>HSNO – substance based</b>	<b>RMA – site by site based</b>
<i>Apply only to hazardous substances as defined in the HSNO Act &amp; Regulations</i>	<i>Applies to hazardous substances and other substances</i>
<i>National effect</i>	<i>Local effect</i>
<i>Controls management of substances from cradle to grave</i>	<i>Controls:</i> <ul style="list-style-type: none"> <li><i>• release of substances to the environment</i></li> <li><i>• the use of land for the storage, use, disposal, or</i></li> <li><i>• transportation of hazardous substances</i></li> </ul>
<i>Controls focused on the substance, irrespective of location</i>	<i>Recognises that effects on the environment are different depending on where the release occurs</i>
<i>Recognises the intrinsic risk of substance and sets bottom line standards</i>	<i>Controls may be different or stricter, but cannot be less strict than HSNO controls</i>

It is agreed that the classifications used by the current District Plan became redundant upon the disestablishment of the Dangerous Goods Licensing Act and, as such, it is appropriate that the classifications become aligned with HSNO for consistency. However, based on the Council's expert technical advice, I am disinclined to recommend that all thresholds are removed from the plan and complete reliance is placed upon group standards, codes of practice or other HSNO regulations. That said, there may be specific instances where a combination of controls which fall outside of the District Plan will be sufficient to adequately control the effects arising from hazardous substances and, in each case, this will be specifically addressed during this report.

There are two reasons why rules in the District Plan will provide better protection for land use activities from hazardous substances than reliance on the other methods set by HSNO. Firstly, HSNO controls the effect of the surrounding land use on the hazardous substance whereas the District Plan controls the effect of the hazardous substance on the surrounding land use. Secondly, there may be cases where the District Plan requires greater controls on hazardous substances because of the unacceptable risk they pose to people and the environment.

#### **Recommendation PC-13/6.1**

It is recommended that the Committee:

- (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 Dunedin Limited (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) **accept in part** the submission of **Mercy Hospital Dunedin Limited (PC-13-31/a)** that the thresholds set in proposed Table 17.1 are too low and would result in unnecessary resource consent requirements. This report recommends that certain thresholds be lowered in response to submissions; see Sections 6.6 to 6.16 of this report for details of recommended changes to Rule 17.5.1 and Table 17.1.
- (iv) **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.
- (v) **reject** the submissions of **Mr Tony Parata (PC-13-30/a)** and **Port Otago Limited (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. However, in some instances, thresholds of specific substances have been raised to enable the day to day operation of these submitters.

- (vi) **reject in part** the submission of **TrustPower Limited (PC-13-40/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.
- (vii) **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.
- (viii) **accept in part** the submissions of **Mercy Hospital Dunedin Limited (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 Recommendation

- (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.
- (ii) It is agreed 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.
- (iii) It was never the intention that the HSNO legislation was to be the sole control for hazardous substances.
- (iv) 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.
- (v) 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.
- (vi) It is accepted 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 it is recommended that the storage and use of these become a permitted activity in order to enable TrustPower to operate more effectively.
- (vii) It is acknowledged 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 6.16 of this report for details of recommended changes to Rule 17.5.1 and Table 17.1.

## 6.2 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>	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.
<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 6.6 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.
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## Assessment

**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.

**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.

## Recommendation PC-13/6.2

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:*

...

## Recommendation PC-13/6.2

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, which*

...

- (iii) **reject** 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, it is recommended that the following activities relating to the transit and storage of hazardous substances be added to Rule 17.5.1 Permitted Activities (additions underlined):

The transit and two-hour storage maximum of tracked hazardous substances within the Port 1, Port 2 or Industrial 1 zones.

The transit and 72 hour storage maximum of non-tracked hazardous substances within the Port 1, Port 2 or Industrial 1 zones.

The storage of hazardous substances within the Port 1, Port 2 or Industrial 1 zones, with either a hazardous substance location or transit depot certificate issued pursuant to the Hazardous Substances (Classes 1 to 5) Regulations 2001.

The storage of hazardous substances in sealed containers with test location certification, within the Group 6 Port Zone.

And the associated inclusion of the definition of **hazardous substance location** and **transit depot** within Section 3: Definitions of the Dunedin City District Plan

- (iv) **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.

## Reasons for Recommendation

- (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) Hazardous substances in transit are considered to be adequately controlled by HSNO either within sealed containers or non-containerised goods which allow a depot storage time of two hours for tracked substances and 72 hours for untracked substances. The Council Technical expert is comfortable with exempting hazardous substances in transit which comply with HSNO regulations. It is considered 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 6.6 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.

### 6.3 Objective 17.2.2

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) supports</b> 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.	

Both **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.

#### Recommendation PC-13/6.3

It is recommended that the Committee:

- (i) **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 retain Objective 17.2.2 and support the proposed changes to the associated explanation.

#### Reasons for Recommendation

- (i) The objective seeks to prevent or mitigate any adverse effects from the storage use, disposal or transportation of hazardous substances.
- (ii) The proposed change expands the explanation to refer to hazardous wastes which now form part of the definition of hazardous substances.

### 6.4 Policy 17.3.8

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) supports</b> 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.	



## Assessment

**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.

**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.

### Recommendation PC-13/6.4

It is recommended that the Committee:

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

### Reasons for Recommendation

- (i) 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 going some way to addressing "hazards to social wellbeing and economy".
- (ii) 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) 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.
- (iv) On 1 April 2004, all Dunedin City Council Dangerous Goods Licences expired. From this date they became 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. As such, it is considered appropriate that only sites that the Council is aware of (i.e. require resource consent) be included on the Hazardous Substances register.

## 6.5 Methods 17.4.1-2 and 17.4.5-7

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>	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.  That the wording in Method 17.4.2 "The register will also include information on known contaminated sites" be deleted.	<b>TrustPower Limited (FS-5) supports</b> this submission.
<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) supports</b> 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) supports</b> 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) supports</b> this submission <b>in part</b> .  <b>TrustPower Limited (FS-5) supports</b> this submission <b>in part</b> .
<b>TrustPower Limited (PC-13-40/f)</b>	That Method 17.4.6 be retained with no amendments.	<b>Horticulture New Zealand (FS-3) part supports</b> and <b>part opposes</b> 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.	

## Assessment

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.

### Recommendation PC-13/6.5

It is recommended that the Committee:

- (i) **reject** 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.
- (ii) **accept** 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 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 ...*

### Recommendation PC-13/6.5

It is recommended that the Committee:

- (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 ...*

- (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.

### Reasons for Recommendation

- (i) On 1 April 2004, all Dunedin City Council Dangerous Goods Licences expired. From this date they became 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. As such it is considered appropriate that only site that the Council is aware of (i.e. require resource consent) be included on the hazardous substances register.
- (ii) It is agreed 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.
- (iii) 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, it is the intention to use some industry codes of practice and therefore, this reference is relevant and should be retained.
- (iv) 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.
- (v) 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.

## 6.6 Rule 17.5.1 Permitted Activities

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) opposes</b> this submission.
<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) supports</b> 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) supports</b> this submission.
<b>Port Otago Limited (PC-13-35/d)</b>	That Rule 17.5.1 be amended to provide for Port 1 Zone activities as a permitted activity, by adding the following rule:  (viii) 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.	
<b>New Zealand Fertiliser Manufacturers' Research Association Incorporated (PC-13-36/a)</b>	That permitted activity status be provided to on-farm storage and use of fertiliser products:  That permitted activity conditions be consistent with the HSNO Fertiliser Group Standards.  That consequential changes be made to words and references within proposed Chapter 17.	<b>Federated Farmers of New Zealand (FS-1) supports</b> this submission.  <b>Mercy Hospital Dunedin Limited (FS-2) supports</b> this submission in part.  <b>Horticulture New Zealand (FS-3) supports</b> this submission.  <b>Port Otago Limited (FS-4) supports</b> this submission.
<b>Holcim (New Zealand) Limited (PC-13-37/b)</b>	That Rule 17.5.1(i) be amended as follows (addition <u>underlined</u> ):  "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.	<b>Port Otago Limited (FS-4) supports</b> this submission.
<b>Holcim (New Zealand) Limited (PC-13-37/c)</b>	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).	<b>Port Otago Limited (FS-4) supports</b> this submission.

Name	Decision sought	Further Submission
<b>Holcim (New Zealand) Limited (PC-13-37/d)</b>	That Rule 17.5.1(vi) be amended 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.	<b>Port Otago Limited (FS-4) supports</b> this submission.
<b>Holcim (New Zealand) Limited (PC-13-37/e)</b>	That an additional Rule 17.5.1(viii) be included in the plan change, as follows: “(viii) 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.”	<b>Horticulture New Zealand (FS-3) part supports</b> and <b>part opposes</b> this submission.  <b>Port Otago Limited (FS-4) supports</b> this submission.
<b>Downer EDI Works Limited (PC-13-38/b)</b>	That Rules 17.5.1(iv) and (vi) be amended so that resource consent requirements apply only where HSNO Location Test Certificates have not been issued.	<b>TrustPower Limited (FS-5) supports</b> this submission.
<b>Ravensdown (PC-13-39/a)</b>	That Rule 17.5.1 be amended to provide for the use or storage of a hazardous substance in the Rural, Industrial or Port Zones as a permitted activity, if they comply with the national HSNO framework.  That Rule 17.5.1(iii) be amended as follows (addition <u>underlined</u> ): “ <u>Unless provided for in 17.5.1 (i) and (ii)</u> the storage, use and disposal of hazardous substances not exceeding the quantity limits and other requirements stipulated in Table 17.1.”	<b>Federated Farmers of New Zealand (FS-1) support</b> this submission in part.  <b>Horticulture New Zealand (FS-3) supports</b> this submission in part.  <b>Port Otago Limited (FS-4) supports</b> this submission.
<b>Chemsafety Limited (PC-13-41/d)</b>	That the phrase “excluding home occupation” in Rule 17.5.1(i) is clarified.  That Rule 17.5.1(ii) is broadened to match the definition within HSNO which excludes fuels and other substances which are contained within the fuel system, electrical system or control system of the vehicle, aircraft or ship.	
<b>Federated Farmers of New Zealand (PC-13-43/a)</b>	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.	<b>Horticulture New Zealand (FS-3) supports</b> this submission.  <b>TrustPower Limited (FS-5) supports</b> this submission.
<b>Federated Farmers of New Zealand (PC-13-43/b)</b>	That the Council adopt rules permitting agrichemical use, storage, transportation and disposal where NZS8409:2004 is complied with.	<b>Horticulture New Zealand (FS-3) supports</b> this submission.
<b>Federated Farmers of New Zealand (PC-13-43/c)</b>	That the Council: <ul style="list-style-type: none"> <li>Specifically refer to the Fertiliser (Subsidiary Hazard) Group Standard as the applicable standard for the storage and use of fertiliser; and/or</li> <li>Adopt rules permitting fertiliser use, storage, transportation and disposal where the Group Standard is complied with; and/or</li> <li>Amend Rule 17.5.1(v) to include those activities which comply with group standards as permitted activities.</li> <li>Adopt rules permitting matters where FertResearch’s Code of Practice for Nutrient Management 2007 is complied with.</li> </ul>	<b>Horticulture New Zealand (FS-3) supports</b> this submission.
<b>Federated Farmers of New Zealand (PC-13-43/d)</b>	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.	

## **Assessment**

**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.

**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.

**Horticulture New Zealand (PC-13-32/g)**, supported by **Federated Farmer of New Zealand (FS-1)**, considers that all activities covered by NZS8409 or which comply with the HSNO requirements for the on-farm storage of Class 3 fuels in the rural zone should be provided for as permitted activities. **Federated Farmers** 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 constancy and clarity for plan users.

**New Zealand Fertiliser Manufacturers' Research Association Incorporated (PC-13-36/a)**, supported by **Federated Farmers of New Zealand (FS-1)**, **Horticulture New Zealand (FS-3)** and **Port Otago Limited (FS-4)**, seeks permitted activity status be provided to on-farm storage and use of fertiliser products, and that permitted activity conditions for these activities be consistent with the HSNO Fertiliser Group Standards. **Mercy Hospital Dunedin Limited (FS-2)** also support **New Zealand Fertiliser Manufacturers' Research Association Incorporated's** submission in part, in that it seeks that permitted activity conditions set out in the District Plan be consistent with HSNO.

**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 Limited (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. **Ravensdown** also seeks clarification to the wording of Rule 17.5.1(iii).

**Holcim (New Zealand) Limited (PC-13-37/b to 37/e)** requests the following amendments to Rule 17.5.1:

- 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 (**PC-13-37/b**). This submission is supported by **Port Otago Limited (FS-4)**.
- 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) (**PC-13-37/c**). This submission is supported by **Port Otago Limited (FS-4)**.
- Amendment to 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)**.
- 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" (**PC-13-37/e**). This submission is supported by **Port Otago Limited (FS-4)** and part supported, part opposed by **Horticulture New Zealand (FS-3)**.

**Port Otago Limited (PC-13-35/d)** considers that hazardous substance 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 substance 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.

However, Port Otago Limited at Port Chalmers is distinct in New Zealand in that it is closely surrounded by residential activity. It is because of the sensitive nature of the surrounding land use that some controls need to be placed on the storage and use of hazardous substances. The port is operating under existing use rights currently with the exception of the consented diesel tank located on the main wharf. As indicated in Section 6.2 of this report, in response to **Port Otago Limited's** submission (**PC-13-35/c**), hazardous substances in transit or short term storage will be exempt from resource consent requirement subject to certain conditions. In addition, some thresholds, such as LPG, can be safely increased and the sub-facility definition can be employed to ensure the port can continue to undertake its everyday operations without hindrance.

**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 on site owners and operators. **Downer EDi Works Limited**, therefore, considers that changes should be made to Rule 17.5.1(iv) which would make permitted activities which require a Location Test Certificate. **Downer EDi Works Limited** also considers Rule 17.5.1(vi) should be amended in a similar manner.

**Chemsafety Limited (PC-13-41/d)** seeks clarification of the term "excluding home occupation". 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, it was considered 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 my opinion, this approach seems reasonable and is supported.

**Federated Farmers of New Zealand (PC-13-43/a)**, supported by **TrustPower Limited (FS-5)** and **Horticulture New Zealand (FS-3)**, 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** 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).

**Federated Farmers** 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/b)**, supported by **Horticulture New Zealand (FS-3)**, seek that the Council adopt rules permitting agrichemical use, storage, transportation and disposal where NZS8409:2004 is complied with.



In addition, supported by **Horticulture New Zealand (FS-3)**, **Federated Farmers (PC-13-43/c)** 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.

Finally, **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.

#### **Recommendation PC-13/6.6**

It is recommended that the Committee:

- reject 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.
- 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)** 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.

- 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 Dunedin Limited (FS-2)**, **Horticulture New Zealand (FS-3)** and **Port Otago Limited (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 (Subsidiary Hazard) Group Standard and FertReaserch's Code of Practice for Nutrient Management 2007.

- (iv) **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.

- (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.

It is further recommended that all reference to control of the disposal of hazardous substances be deleted from the District Plan. This affects the following elements of Section 17 Hazards, Hazardous Substances and Earthworks: Introduction, Issue 17.1.6, Objective 17.2.2, Policy 17.3.8, Method 17.4.2, Rule 17.5.2(iii) and Rule 17.5.4(i).

- (vi) **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.
- (vii) **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.
- (viii) **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.

- (ix) **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...*
- (x) **reject** the submission of **Port Otago Limited (PC-13-35/d)** that the storage and use of hazardous substances should be a permitted activity (subject to conditions relating to proximity to dwellings, security from public access and HSNO compliance) in the Port 1 Zone.
- (xi) **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.*
- (xii) **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 to include the word "or packaging", as follows (addition underlined):
- ...The product must be stored in the container or packaging in which it was sold...*
- (xiii) **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(x) (formerly numbered Rule 17.5.1(iii), in the plan change as notified) be amended as follows (deletions ~~scored out~~, additions underlined):
- (x) *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.*
- (xiv) **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 Limited (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.
- (xv) **reject** the submission of **Downer EDI (PC-13-38/b)** and the further submission of **TrustPower Limited (FS-5)** that Rules 17.5.1(iv) and (vi) be amended to exempt those activities which have a Location Test Certificate.
- (xvi) **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.

### **Reasons for Recommendation**

- (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.
- (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 (Subsidiary Hazard) Group Standard 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 HSNOCOP 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 by 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) 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.
- (v) In respect of Rules 17.5.1(iv), (v), (vi) and (vii), it is considered that the submitter is correct in his assessment of the rules and it is recommended that they should be amended to form part of the user guide.
- (vi) The Port 1 Zone is surrounded by sensitive land uses and, as such, some controls are required to ensure that those adjacent land uses are protected. Concessions have been made regarding goods in transit, and thresholds have been increased where this can be done safely.
- (vii) The Port 2 Zone is recognised as an industrial area which holds or stores significant quantities of material and as such should have similar thresholds to the Industry and Port 1 zones. 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.
- (viii) Hazardous substances in transit are considered to be adequately controlled by HSNO either within sealed containers or non-containerised goods which allow a depot storage time of 2hrs for tracked substances and 72hrs for untracked substances. The Council Technical expert is comfortable with exempting hazardous substances in transit which comply with HSNO regulations.

(ix)	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.
(x)	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.
(xi)	It is recommended that the Rules 17.5.1 (ii) and (iii) are amended for the purpose of clarity to ensure that the permitted activity rules do not void each other.
(xii)	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. It is not the intention to exempt activities because they obtain certification as when this is issued the certifier does not take into account surrounding land use and how the hazardous substance may affect this.
(xiii)	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, it was considered necessary to specifically exclude 'home occupation' to remove any potential loophole.

**6.7 TABLE 17.1 - GENERAL**

<b>Name</b>	<b>Decision sought</b>	<b>Further Submissions</b>
<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) supports the submission in part.</b>  <b>Horticulture New Zealand (FS-3) supports the submission in part.</b>
<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>New Zealand Fertiliser Manufacturers' Research Association Incorporated (PC-13-36/b)</b>	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.  Either: That 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.	<b>Mercy Hospital Dunedin Limited (FS-2) supports the submission in part.</b>  <b>Federated Farmers of New Zealand (FS-1) supports the submission in part.</b>  <b>Horticulture New Zealand (FS-3) supports the submission.</b>

	With consequential changes made to words and references within proposed Chapter 17.	
<b>Ravensdown (PC-13-39/b)</b>	<p>Clarify whether thresholds apply to individual substance types or to the sum of all substances within each HSNO class or sub-class.</p> <p>Correct inconsistencies regarding volume of substance to reflect liquid, solid or gas nature of substance.</p>	<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>

### **Assessment**

**Mr Tony Parata (PC-13-30/c)**, supported by **Federated Farmers of New Zealand (FS-1)** and **Horticulture New Zealand (FS-3)**, believes that the thresholds for agrichemicals within the Rural and Rural Residential Zone should be removed as these are well controlled by HSNO COP 4-2 Management of Agrichemicals.

**Mercy Hospital Dunedin Limited (PC-13-31/b)** consider 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 would result in a resource consent requirement. It should be noted that any increase to their operation would require resource consent under the current plan regardless of any hazardous substance component and that hazardous substances could be considered at the time that any other resource consent application was being processed. It would be irresponsible to raise the District Plan thresholds for the residential zones across the board to accommodate one anomalous hazardous substance user.

**Port Otago Limited (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, it was never the intention of the MfE that HSNO stand alone as the sole control for hazardous substances.

**New Zealand Fertiliser Manufacturers' Research Association Incorporate (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)**, **Mercy Hospital Dunedin Limited (FS-2)** and **Horticulture New Zealand (FS-3)**, considers 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.

**New Zealand Fertiliser Manufacturers' Research Association Incorporated** 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 requirement; therefore, either the relevant thresholds should be deleted from Table 17.1, or fertiliser use and storage by farmers in compliance with HSNO standards should be exempt from the table.

**Ravensdown (PC-13-39/b)**, supported by **Federated Farmers of New Zealand (FS-1)**, **Horticulture New Zealand (FS-3)** and **Port Otago Limited (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. **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.

**Chemsafety Limited (PC-13-41/e)**, supported by **Mercy Hospital Dunedin Limited (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. These concerns are considered reasonable and justification of the thresholds was sought from Council's technical expert who stood by most thresholds but did re-evaluate others.

#### **Recommendations PC-13/6.7**

It is recommended that the Committee:

- (i) **reject** the submission of **Mercy Hospital Dunedin Limited (PC-13-31/b)**, in that the thresholds set in proposed Table 17.1 be opposed and thresholds be introduced which accommodate the submitter's operation without the need for resource consent.
- (ii) **reject** the submission of **Port Otago Limited (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.
- (iii) **accept in part** the submission of **New Zealand Fertiliser Manufacturers' Research Association Incorporated (PC-13-36/b)** and the further submissions of **Federated Farmers of New Zealand (FS-1)** and **Horticulture New Zealand (FS-3)** in that fertiliser use and storage by farmers be given permitted activity status based on complying with HSNO standards. In consequence, it is recommended that Rule 17.5.1 be amended as indicated under Recommendation PC-13/6.6(iii) in section 6.6 of this report.
- (iv) **accept in part** the submission of the **New Zealand Fertiliser Manufacturers' Research Association Incorporated (PC-13-36/b)** and the further submissions of **Federated Farmers of New Zealand (FS-1)**, **Mercy Hospital Dunedin Limited (FS-2)** and **Horticulture New Zealand (FS-3)** in 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.
- (v) **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 a note should be included within the plan, explaining that when calculating the volume of substances listed in Table 17.1, this calculation should be aggregate. In consequence, it is recommended that Note 5 be added to the Note to Plan Users at the beginning of the Rules section, as follows (addition 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.
- (vi) **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 Dunedin Limited (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 Recommendation**

- (i) 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) As per the discussion relating to Rule 17.5.1 above, it is the intention within the rural zone to make the use and storage of fertiliser a permitted activity providing it is in accordance with applicable HSNO Group Standards.
- (iii) 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. It was never the intention that HSNO stand alone as the sole control for hazardous substances.
- (iv) 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 Council's technical expert has reassessed each class of substance and made some changes to ensure the risk of the substance and relevant threshold are appropriate.

### **6.8 TABLE 17.1 – CAMPUS ZONE**

<b>Submitter</b>	<b>Decision Sought</b>
<b>University of Otago (PC-13-29)</b>	<p>That the thresholds included in Table 17.1 be amended as they relate to the Group 3: Campus Zone.</p> <p>Specifically:</p> <p>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.</p> <p>That the threshold for Class 3.1C be reworded to provide for 450 litres in approved HSNO type stores.</p> <p>That the threshold for Class 4.1.3A-C be raised to 5kg.</p> <p>That the thresholds for 6.1A-C be raised to 100L or 100kg.</p> <p>That the threshold for Class 8.3A be raised to 1000L to ensure consistency with Classes 8.2A-C.</p>

### **Assessment**

The changes, proposed by the University of Otago for the Group 3: Campus Zone, have been assessed by the Council's consultant expert. The Council's expert is satisfied with the volumes, proposed by the University of Otago for the Group 3: Campus Zone, are acceptable.



### Recommendation PC-13/6.8

It is recommended that the Committee:

- (i) **accept in part** the submission of the University of Otago (**PC-13-29**) as it relates to the thresholds set for 'Non-flammable, non-toxic cryogenic liquids, Class 3.1C, Class 4.1.3A-C and Class 8.3A.' In consequence, it is recommended that the following changes be made to Table 17.1 (deletions ~~scored-out~~, additions underlined):

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

Under Flammable Solids/Class 4.1.3A-C/Group 3:

0 5kg

Under Corrosives/Class 8.3A/Group 3:

5 litres 1000 litres

- (ii) **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

### Reasons for Recommendation

- (i) The University of Otago is the predominant occupier of the Campus Zone. It is recognised 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.

## 6.9 TABLE 17.1 – PORT 2 ZONE

Submitter	Decision Sought
<b>Port Otago Limited (PC-13-35/f)</b>	<p>That the thresholds contained in Table 17.1 as they apply to the Port 2 Zone be amended as follows:</p> <ul style="list-style-type: none"> <li>• That, for each category, use or storage be made a permitted activity either up to the limit permitted by a HSNO test certificate or if no test certificate is held, up to the thresholds set out in Table 17.1.</li> <li>• That the threshold for outdoor storage of LPG (incl. propane-based refrigerant) in cylinders be increased from 180kg to 300kg.</li> <li>• That the threshold for 3.1A flammable liquids – cumulative total limit – be increased so that it is equivalent to the Rural Zone threshold.</li> <li>• That the threshold for storage of 3.1A liquid – very high hazard (e.g. petrol) in a certified double skin tank be increased from 600 litres to 2000 litres.</li> <li>• That the threshold for storage of 3.1B liquid – very high hazard (e.g. acetone, paint thinners) in a certified double skin tank be increased from 600 litres to 1200 litres.</li> <li>• That the threshold for 5.1.1A-C Oxidising Substances – Liquids and Solids – be increased from 200 litres/kg to 500 litres/kg.</li> </ul>

### Assessment

**Port Otago Ltd (PC-13-35/f)** seeks a number of amendments to increase the thresholds proposed for certain hazardous substances in the Port 2 Zone. It is noted that, as discussed in section 6.2 above, 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. The ability of the Port 2 Zone to use the sub-facility calculation will increase the quantity of hazardous substances able to be held within that zone without resource consent. While the increases to the specific thresholds as requested will not be introduced, the ability of the Port 2 zone to use the hazardous sub-facility will ensure that the volumes of hazardous substances that are able to be stored and used on any given site within that zone will increase.

### Recommendation PC-13/6.9

It is recommended that the Committee:

- (i) **reject** the submission by **Port Otago Limited (PC-13-35)** that the thresholds as they apply to the Port 2 zone be revised.

### Reasons for Recommendation

- (i) The Port 2 Zone is recognised 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.
- (ii) 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.
- (iii) Increases to thresholds within Group 6 as a result of other submissions will apply to the Port 2 zone. These increases include changes to thresholds of Class 2, 3, 6, 8 and 9 substances.

**6.10 TABLE 17.1 – CLASS 1 THRESHOLDS**

<b>Submitter Name</b>	<b>Decision Sought</b>	<b>Further Submissions</b>
<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>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 Association Arms 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) supports this submission in part.</b>
<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) supports this submission in part.</b>
<b>Antique Association Arms 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) supports this submission in part.</b>
<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) supports this submission in part.</b>
<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) supports this submission in part.</b>
<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) supports this submission in part.</b>
<b>New Council of Licensed Firearm 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) supports this submission in part.</b>
<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) supports this submission in part.</b>
<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) supports this submission in part.</b>
<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) supports this submission in part.</b>
<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) supports this submission in part.</b>

<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) supports this submission in part.</b>
<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 Van 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) supports this submission in part.</b>
<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.	

### **Assessment**

Under the current District Plan, no person is able to hold gunpowder 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 gunpowder 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 gunpowder 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 Council's 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 Dunedin Limited (FS-2)** supported those submissions which sought alignment of the District Plan with the limits imposed by HSNO.

For clarification, Christchurch'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 gunpowder 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.

#### **Recommendation PC-13/6.10**

It is recommended that the Committee:

- (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 Dunedin Limited (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**
- (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 Dunedin Limited (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 Dunedin Limited (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

- (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).

#### **Reasons for Recommendation**

- (i) 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. 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) Discussion with Council's expert advisor, who obtained advice from the New Zealand Fire Service, has relaxed Council's stance regarding the risk posed by these substances.

#### **6.11 TABLE 17.1 – CLASS 2 THRESHOLDS**

Submitter	Decision Sought	Further Submission
<b>LPG Association of New Zealand (PC-13-33/b)</b>	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.  That all indoor storage limits for LPG be deleted from Table 17.1	
<b>Chemsafety Limited (PC-13-41/f)</b>	That, in respect of Class 2.1.1, the terminology used be "high" or "medium" hazard flammable gases.  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.  That provision be made within the plan for Class 2.1.1A – Other Liquefiable Flammable Gases.	<b>Mercy Hospital Dunedin Limited (FS-2) and Horticulture New Zealand (FS-3) support this submission in part.</b>
<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.	

#### **Assessment**

**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. Currently, within the Residential Zone, a limit of 180kg of LPG is permitted outside and 20kg is permitted inside. The submitter argues 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. I would point out that the Residential Zone does not only provide for residential activity and that it is perfectly reasonable to consider resource consent applications for non-residential activities within the Residential Zone. It is equally reasonable to require consent for any increase above the permitted thresholds within a sensitive area such as a Residential Zone.

Notwithstanding the 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 advises 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.

**Chemsafety Limited** considers that in respect of Class 2.1.1, the terminology used 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 Dunedin Limited (FS-2)** and **Horticulture New Zealand (FS-3)**, in that it seeks consistency between Table 17.1 and HSNO.

**Port Otago Limited'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.

#### **Recommendation PC-13/6.11**

It is recommended that the Committee:

- (i) **accept in part** the submission of the **LPG Association of New Zealand (PC-13-33/b)** and the further submissions of **Mercy Hospital Dunedin Limited (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 Dunedin Limited (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.

- (ii) **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.
- (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 **Chemsafety Limited (PC-13-41/f)** and the further submissions of **Mercy Hospital Dunedin Limited (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*

- (v) **accept in part** the submission of **Chemsafety Limited (PC-13-41/f)** and the further submissions of **Mercy Hospital Dunedin Limited (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*

- (vi) **accept in part** the submission of **Port Otago limited (PC-13-35/a)** that the limits imposed by table 17.1 unduly restrict their operation in that the threshold of total storage quantity for LPG be increased to 600kg within the Group 6 Port Zones.

#### **Reasons for Recommendation**

- (i) 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) While the removal of the indoor limit is not acceptable to the Council's Technical Expert, it was agreed that increasing the limit to reflect the HSNO limits for factories and warehouses by allowing the storage and use of 45kg cylinders is appropriate within the non-residential zones and providing it is associated with non-residential activities.
- (iii) The Council's Technical Expert considers that it is appropriate to change the reference to Class 2.1.1 to refer to flammable gases.
- (iv) It is considered reasonable that these gases are provided for, and Council's Technical Expert believes that 50kg in all zones, excluding Residential Zones and activities, is appropriate.
- (v) The threshold of total storage quantity for LPG be increased to 600kg within the Group 6 Port Zones reflects what is currently occurring on the ground within the hazardous sub-facilities within this zone.



**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 October 2010 version 3 April 2008.	<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.
<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>	

### **Assessment**

**Mr Alec Cassie** for **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)**.

**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 Dunedin Limited (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.

**Port Otago Limited (PC-13-29/a)** note that the maximum quantities of Class 3.1 B liquids are in the order of 1200-1300L and stored in maximum of 20L drums. Port Otago Limited 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 Council's consultant expert 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 he is reluctant to extend this volume to the industrial zone.

**Port Otago Limited** also request 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 in approved HSNO ‘Type’ store**” would also be acceptable to Port Otago Limited, if applied to the Group 6 Port Zone and Industry Zones.

#### **Recommendation PC-13/6.12**

It is recommended that the Committee:

- (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 submission of **Ms Chemsafety Limited (PC-13-41/g)** and the further submissions of **Mercy Hospital Dunedin Limited (FS-2)** and **Horticulture New Zealand (FS-3)** that the threshold for Class 3.1C be raised to 450L 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 ≤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 ≤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 ≤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.

- (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 ≤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 in approved HSNO 'Type' store"** be permitted within the Group 6 Port Zone and Group 2: Industry Zone.

### **Reasons for Recommendation**

- (i) The thresholds are proposed by 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.
- (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 should not have more restricted thresholds than other well regulated users such as the those users within the Campus Zone.

### **6.13 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) and Horticulture New Zealand (FS-3) support this submission in part.</b>

### **Assessment**

**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.

I would note 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 Dunedin Limited (FS-2)** and **Horticulture New Zealand (FS-3)**, in that it seeks consistency between Table 17.1 and HSNO.

#### **Recommendation PC-13/6.13**

It is recommended that the Committee:

- (i) **reject in part** the submission of **Chemsafety Limited (PC-13-41/h)** and the further submissions of **Mercy Hospital Dunedin Limited (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 Dunedin Limited (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 Dunedin Limited (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:

300cm<sup>3</sup> for catering purposes only

#### **Reasons for Recommendation**

- (i) Discussion with the Council's Technical Expert, has indicated 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.
- (ii) It is acknowledged 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 300cm<sup>3</sup> will require resource consent.

**6.14 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) supports</b> 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) supports</b> 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) and Horticulture New Zealand (FS-3) supports</b> this submission in part.

### Assessment

**Holcim (New Zealand) Limited (PC-13-37/f and 37/g)**, supported by **Port Otago Limited (FS-4)**, seeks changes to the thresholds contained with 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.

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. Many organisations with boilers may hold more than 100kg of salt and would therefore require resource consent.

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

### Recommendation PC-13/6.14

It is recommended that the Committee:

- (i) **accept** 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 be amended as follows (additions underlined):

Under Toxic Substances/6.4A Eye irritant:

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) **accept** 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 amended as follows (additions underlined):

Under Toxic Substances/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

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

### **Reasons for Recommendation**

- (i) The Council's expert advisor 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.
- (ii) The Council's expert advisor 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.
- (iii) The Council's expert advisor accepts 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) Hydrochloric Acid is not stored as a gas and, as such, it would be difficult to place thresholds on that substance. In addition, the escape of the gas into the environment is controlled by the Otago Regional Council under the Regional Plan: Air.
- (v) It is acknowledged 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 litres for Group 2 and 4.

**6.15 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.
<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.

### **Assessment**

**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.

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 kilogrammes 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 Dunedin Limited (FS-2)** and **Horticulture New Zealand (FS-3)**, in that it seeks consistency between Table 17.1 and HSNO.

#### **Recommendation PC-13/6.15**

It is recommended that the Committee:

- (i) **accept** 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 be amended as follows (additions underlined):

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

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) **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 Class 8.3A Substances Corrosive to the Eye be amended as follows (additions underlined):

Under Corrosives/8.3A Substances corrosive to the eye:

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

- (iii) **reject in part** the submission of **Chemsafety Limited (PC-13-41/j)** and the further submissions of **Mercy Hospital Dunedin Limited (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 Dunedin Limited (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 Dunedin Limited (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~~

### **Reasons for Recommendation**

- (i) The Council's expert advisor 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 Council's expert advisor 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.
- (iii) Discussion with the Council's Technical Expert has indicated 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) It is recognised 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) It is agreed 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.

### **6.16 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) and Horticulture New Zealand (FS-3) support this submission in part.</b>

### **Assessment**

**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 Dunedin Limited (FS-2)** and **Horticulture New Zealand (FS-3)**, in that it seeks consistency between Table 17.1 and HSNO.

#### **Recommendation PC-13/6.16**

It is recommended that the Committee:

- (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 Dunedin Limited (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.
- (iii) **accept in part** the submission of **Chemsafety Limited (PC-13-41/k)** and the further submissions of **Mercy Hospital Dunedin Limited (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 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.

#### **Reasons for Recommendation**

- (i) It is accepted 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 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 class threshold. Where a hazardous substance requires resource consent because it breaches the base 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.

## 6.17 RULE 17.5.2 CONTROLLED ACTIVITIES

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

### Assessment

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.

### Recommendation PC-13/6.17

- (i) **reject** the submission from the **LPG Association of New Zealand (PC-13-33/c)** that Rule 17.5.2(i)(b) be deleted.

### Reason for Recommendation

- (i) 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. These assessment matters will enable Council to insist on increased mitigation and containment requirements when located in sensitive areas.

## 6.18 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 to add the following:  (iii) In the Port 1 Zone, the storage, use or disposal of hazardous substances which does not meet the conditions in 17.5.1(viii).

### Assessment

**Port Otago Limited (PC-13-35/g)** requests that, where hazardous substances are stored, used or disposed of in the Port 1 Zone in a way that does not comply with Rule 17.5.1(viii) (an additional permitted activity rule for the Port 1 Zone, 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.

For reasons discussed in section 6.6 above, it is not recommended that the additional permitted activity rule 17.5.1(viii) proposed by the submitter be adopted. This proposed rule would allow most activities relating to hazardous substances to proceed in the Port 1 Zone without the need for resource consent.

It is therefore unnecessary to include the additional discretionary activity (restricted) rule proposed by the submitter to manage activities that do not comply with the submitter's proposed additional permitted activity rule.

### **Recommendation PC-13/6.19**

It is recommended that the Committee:

- (i) **reject** the submission of **Port Otago Limited (PC-13-35/g)** that a new rule be added to Rule 17.5.3 Discretionary Activities (Restricted) to manage activities that do not comply with an additional permitted activity rule proposed by the submitter.

### **Reasons for Recommendation**

- (i) It is not recommended that the additional permitted activity rule 17.5.1(viii) proposed by the submitter be adopted. It is therefore unnecessary to include the additional discretionary activity (restricted) rule that is proposed by the submitter to manage activities that not complying with proposed rule 17.5.1(viii).

## **6.19 ASSESSMENT MATTER 17.6.14**

<b>Submitter</b>	<b>Decision Sought</b>
<b>Federated Farmers of New Zealand (PC-13-43/f)</b>	The inclusion of Assessment Matter 17.6.14 is supported but that Codes of Practice are also incorporated in the permitted activity framework.

### **Assessment**

**Federated Farmers of New Zealand (PC-13-43/f)** consider that it is appropriate that Codes of Practice are taken into consideration when assessing resource consent applications; it is their preference that compliance with the Codes of Practice and standards would exempt the activity from requiring resource consent. As discussed in section 6.6 of this report, it is recommended that fertiliser, agrichemicals and above-ground storage of fuel are provided for as permitted activities if used and stored in accordance with the relevant Codes of Practice, Approved Practice Guides and New Zealand Standards.

### **Recommendation PC-13/6.19**

It is recommended that the Committee:

- (i) **accept** the submission of **Federated Farmers of New Zealand (PC-13-43/f)** that Assessment Matter 17.6.14 be retained and that codes of practice be incorporated into Permitted Activity Rule 17.5.1 where appropriate.

### **Reasons for Recommendation**

- (i) Codes of Practice are a useful assessment matter to determine the appropriate use and storage of a hazardous substance and can inform conditions of consent.
- (ii) Within the Rural Zone, it is recommended that fertiliser, agrichemicals and above-ground storage of fuel is permitted provided it is used and stored in accordance with the relevant Codes of Practice, Approved Practice Guides and New Zealand Standards.

## **7.0 AMENDMENTS WITH MINOR EFFECTS**

The following amendments to the District Plan are recommended in accordance with Clause 16(2) of the First Schedule to the RMA, which states that:

"A local authority may make an amendment, without using the process in this schedule, to its proposed policy statement or plan to alter any information, where such an alteration is of minor effect, or may correct any minor errors."

It is proposed that a footnote be added to Method 17.4.2 Hazardous Substances Register to explain changes to the nature of information held by the Council on sites where hazardous substances are present.

Following discussion with the Council's Expert Consultant it was noted that Class 1.4S Sodium Azide was overlooked and should have been separated out from the other Class 1.4S because of the significant risk it poses to health and safety. It is determined that the storage and use of Sodium Azide should always require resource consent.

In addition, it is proposed that a Note to Plan Users be inserted at the beginning of the Rules section to clarify that 'Group 2: Activity, Industry, Stadium, Proposed Harbourside Zones, excluding residential activities' includes non-residential activities within the Central, Large Scale Retail and Local Activity Zones.

Finally for clarification it is proposed that of the term 'medical facility' as identified in the class 5 section of proposed table 17.1 be defined to specifically include medical centres, dentists, rest homes, hospitals, surgeries and veterinarian practices.

The proposed amendments are therefore as follows:

(i) Amend Method 17.4.2 Hazardous Substances Register by adding footnote 4 as follows (addition underlined):

On 1 April 2004, all Dunedin City Council Dangerous Goods Licences expired. From this date they became 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.

(ii) Insert Note 7 within the Note to Plan Users at the beginning of the Rules section, as follows (addition underlined):

7) Central, Large Scale Retail and Local Activity Zones are included in Table 17.1 within the Group 2 section.

(iii) Set a zero threshold for Class 1.4S Sodium Azide in all zones.

Explosives - Class 1.4B-G, S

Insert Sodium Azide - 0 Threshold

(iv) Insert a definition of 'Medical Facility (for the purposes of Table 17.1 only)' as follows:

means any Medical Centre, Dental Clinic, Rest Home, Hospital, Surgery or Veterinarian Clinic.

  
Kirstyn Lindsay  
**PLANNER (POLICY)**