

To | Hearing 8A Submitters
From | S42A Author – Katherine Overwater
Subject | Post-hearing work to be undertaken
Date | 5 February 2020

Post-hearing Work required

The hearings Panel are of the view that the hazardous substances topic is too important to determine their position based on the information presented at the hearing.

The Panel accepted the view of legal Counsel appearing at the hearing that the District Plan should not duplicate controls and legislation relating to the control of hazardous substances. Therefore the legal framework is agreed.

However, the evidence presented at the hearing did not establish one way or the other whether the proposed plan provisions duplicate the other legislation and, are therefore not necessary, or whether additional controls under the RMA are required to fill any gaps.

Accordingly the Panel have requested a ‘robust’ analysis of any specific duplication, gaps or contradictions between applicable HSNO and HSW regulations and the proposed District Plan provisions and has directed that Council undertakes an initial analysis with feedback requested from all submitters to this topic.

From the directions given at the hearing, the analysis is not intended to be a “line by line” approach. Council also do not consider that it is realistic to include any non-statutory documents in the analysis given the scope and time available.

Once this information is available, the extent to which the proposed plan provisions requiring amending or not will be clear.

Scope of Work

As directed by the hearing commissioners, Council will undertake a piece of analysis of the extent to which the existing legislation does/does not cover the controls under the RMA, specifically in relation to:

- Health and Safety at Work (Hazardous Substances) Regulations 2017
- Hazardous Substances (Hazardous Property Controls) Notice 2017

Council does not consider it relevant to cover the Health and Safety at Work (Major Hazard Facilities) Regulations 2016 as there are currently no Major Hazard Facilities in the Waikato District listed on the WorkSafe NZ public database (and hence controls under those regulations are not applied).

Council’s technical expert (Mr Schaffoener) considers that the analysis can be undertaken on a part-by-part basis which follows the order in the legislation with some additional analysis of

relevant clauses and schedules. Mr Schaffoener has indicated that there are 19 parts in the Health and Safety at Work (Hazardous Substances) Regulations 2017 and four parts in the Hazardous Substances (Hazardous Property Controls) Notice 2017 and that this work will take a few weeks to complete.

In addition, the Panel has requested from Council a re-evaluation in terms of section 32 to examine the extent to which the objectives of the proposal being evaluated are the most appropriate way to achieve the purpose of the Act. This evaluation report will be prepared in light of the initial analysis taking into account any duplication, contradictions and gaps in the regulation.

To be relevant, the Panel has suggested that this assessment should be based on post s42A provisions and any further possible amendments proposed by Council following the legislative analysis (including submitter feedback).

The Panel has also requested monthly updates on the progress of this work and has also requested full transparency with submitters.

Timetable

The Panel have directed that the work to be undertaken is completed by 1 May 2020. However they have also indicated that if more time is required, they are open to additional time as required.

The following timetable sets out the tasks to be undertaken, by who and timeframes:

	Task	Who	Timetable
1.	Council to undertake an analysis of HSNO and HSWA regulations and prepare draft section 32 evaluation	Council Technical Expert & Council S42 Reporting Planner	Friday 20 th March 2020 (7 weeks)
2.	Send draft analysis and section 32 evaluation to all submitters	Council S42 Reporting Planner	Friday 20 th March 2020
3.	Submitters to provide feedback on draft analysis and section 32 evaluation report	All submitters	Friday 17 April 2020 (4 weeks) – Following Easter
4.	Council reviews feedback received from submitters and makes further amendments to the analysis and evaluation (if necessary)	Council S42 Reporting Planner & Council Technical Expert	Monday 20 th April – Friday 1 st May (2 weeks)
5.	Council meets with submitters (if required)	Council and submitters (who wish to participate)	Week of 27 th April – 1 st May
6.	Report back to the Panel	Council S42 Reporting Planner	28 th February 27 th March 1 st May
7.	Submit final analysis and evaluation to the Panel	Council S42 Reporting Planner	1 st May

Should additional time be required by either Council or the submitters, this will be reported to the Panel in the monthly reporting.

Request from Submitters

To assist Council with an efficient and engaging process, Council requests from submitters any feedback on the process set out above and any specific examples of perceived overlaps or inconsistencies, as well as gaps, in advance of receiving Council's analysis.

Ideally it would be helpful for Council to have any feedback on the process set out in this memorandum by **5pm on Friday 14th of February** and any additional information or examples to be provided by **5pm on 21st of February 2020**.

This information can be emailed directly to Katherine.Overwater@waidc.govt.nz noting that if any information is being sent prior to Monday 17th of February, please copy in or send directly to Carolyn.Wratt@waidc.govt.nz.