

Module 5

Addressing HSNO Act and RMA responsibilities for hazardous substances through regional and district plans

What

- overview of requirements for regional and district plans under the HSNO Act and the RMA
- overview of the relationship between activity standards in plans under the RMA and minimum performance standards under the HSNO Act
- overview of plan change/variation procedures and review of plans to meet the requirements of the HSNO Act

Why

- to understand the key roles and new responsibilities for regional and district councils under the HSNO Act and the RMA
- to know how to implement changes to regional and district plans in accordance with new HSNO Act and RMA requirements
- to identify any gaps in who is responsible for what under the HSNO Act and the RMA, as territorial authorities may have additional responsibilities
- to keep abreast with the transition period under the HSNO Act and the sequence of changes as various controls are transferred to the HSNO Act

How

- presentation
- exercises and case study
- group discussion



“Planning is bringing the future into the present so that you can do something about it now.”

Alan Lakein

Module 5

Addressing HSNO Act and RMA responsibilities for hazardous substances through District and Regional Plans

5.1 REQUIREMENTS FOR LOCAL AUTHORITIES UNDER THE HSNO ACT AND THE RMA

Overview

This module focuses on what regional and district plans need to address under the HSNO Act and the RMA. Both Acts aim to protect human health and the environment from the effects of hazardous substances.

However, the difference between the HSNO Act and RMA requirements for hazardous substances is that the HSNO Act is substance-based and the RMA is site- and activity-based.

HSNO controls have a national effect i.e. the same controls apply regardless of where the site is located; while RMA controls depend on the local environment and the actual area in which the site is located.

The RMA will become the main law that controls hazardous substances on a site-specific basis, once the HSNO Act fully replaces the current legislation for dangerous goods and other hazardous substances. Local authorities will need to keep abreast of these changes as they occur through the current transition period, which spans three to five years.

Regional and district plans therefore need to address the relevant provisions of both Acts in their respective policy statements and plans. In light of the HSNO Act requirements and amendments to the RMA, local authorities will need to ensure that they have adequately addressed new responsibilities relating to their management of adverse effects and risks associated with hazardous substances.



Notes

Key requirements under the RMA for local authorities

Roles for regional councils and territorial authorities

The RMA requires that local authorities manage the adverse effects and risk associated with hazardous substances. Local authorities comprise regional council and territorial authorities (city and district councils), and unitary authorities.

There are two main areas where local authorities plan for the control of hazardous substances under the RMA

- planning for the use, storage and transportation of hazardous substances (territorial authorities)
- planning for discharges of hazardous substances into the environment (regional councils).

The RMA requirements for local authorities to manage and control hazardous substances are in sections 30 and 31 of the RMA. These are shown in Module 3.

The roles and responsibilities for regional councils and territorial authorities are specified in the regional policy statement, as per the amended section 62 (1)(i) and 62 (2) RMA which states:

“(1) A regional policy statement must state-

(i) the local authority responsible in the whole or any part of the region for specifying the objectives, policies, and methods for the control of the use of land –

(i) to avoid or mitigate natural hazards or any group of hazards; and

(ii) to prevent or mitigate the adverse effects of the storage, use, disposal, or transportation of hazardous substances; and

(iii) to maintain indigenous biological diversity;

(2) If no responsibilities are specified in the regional policy statement for functions described in subsection (1)(i) (i) or (ii), the regional council retains primary responsibility for the function in subsection (1)(i) (i) and the territorial authorities of the region retain primary responsibility for the function in subsection (1) (i) (ii).

Regional councils have a role in controlling the use of land for the purpose of managing hazardous substances.

Territorial authorities have a significant role in addressing the effects of hazardous facilities. The new provisions of section 62 RMA, as per the Resource Management Amendment Act 2003 (section 25) now require local authorities to identify in the Regional Policy

*HSNO and RMA
requirements for
regional and district
plans*

Statement whether the regional council or the territorial authorities will retain the primary responsibility for hazardous substances. This will involve liaison with the regional council to identify roles and responsibilities and whether there are any “default” type responsibilities for those areas not covered by other agencies. If the Regional Policy Statement does not identify which local authority will be responsible for hazardous substances, then the territorial authorities of the region will retain the primary responsibility for this function. (Refer to section 103 of the Resource Management Amendment Act 2003 for details on amendments to the Fourth Schedule of the HSNO Act 1996)

Section 142 of the HSNO Act (refer Module 2) describes how RMA and HSNO controls for hazardous substances are not mutually exclusive and may overlap, by providing the relative hierarchy and powers for the respective legislation. This is covered in greater detail in Module 2.

This provides for RMA controls to set stricter standards than the HSNO minimum performance standards, which take into account local needs and environmental factors. However, the RMA control standards cannot be less stringent than the HSNO controls for hazardous substances.

At present, the HSNO controls are in a transitional phase where existing controls on hazardous substances apply until they are replaced fully by the HSNO provisions. Once this happens, the RMA will be the main Act to control hazardous substances on a site-specific basis.

This means that the hazardous substances sections of regional and district plans will need to be assessed to determine the following:

- whether they allow for and are consistent with the HSNO controls; and
- whether they are adequate for the needs of their community.



Notes

Key requirements for regional policy statements

Regional councils undertake their duties in three ways; through:

- regional policy statements that set out how natural and physical resources are to be managed in an integrated way
- regional coastal plans for the coastal marine area and other regional plans to provide for the rules and methods to achieve the matters set out in the policy statements
- resource consents, including coastal permits, water permits, discharge consents and certain types of land use consents (e.g. disturbance of a riverbed).

What regional policy statements need to address

Section 62 RMA describes how regional policy statements need to address matters of regional significance, as described in Part II of the Second Schedule of the RMA that are appropriate to the circumstances of that region. Section 62 RMA has been repealed and replaced with new text in Section 25 Resource Management Amendment Act 2003 (refer section 5.1 of this Guide for details).

Essentially, the regional policy statement will identify:

- significant resource management issues of the region
- resource management matters of significance to iwi authorities
- objectives, policies and methods to address the issues, with reasons for the provisions and the environmental results anticipated from the implementation of the policies and methods
- cross-boundary issues for local authorities.

As noted above, the regional policy statement also needs to address which local authority has primary responsibility for hazardous substances.

Other matters to be considered in the regional policy statement are relevant national environmental standards and national policy statements, pursuant to sections 18 and 25 respectively of the Resource Management Amendment Act 2003.

The regional policy statement will also need to address any relevant matters under MARPOL (refer to Module 3 for further details on Marpol).

Review of regional policy statements in light of HSNO requirements

The regional policy statement needs to detail roles and responsibilities for regional councils and territorial authorities to address the effects of natural hazards and hazardous substances.

Section 62 (1)(ha) was amended by HSNO provisions as described in the Fourth Schedule of the HSNO Act. This has subsequently been amended by the Resource Management Amendment Act 2003,

as described above. Essentially the regional policy statement must identify which local authority is responsible for hazardous substances, otherwise the territorial authorities of the region will retain primary responsibility for this function. (refer to the new section 62(1)(i) and (2) RMA).

In section 103 of the Resource Management Amendment Act 2003, the HSNO Act 1996 is amended by omitting the section 62(1)(ha) RMA item.

The implications for all regional councils is that they may need to review their regional policy statements in light of the HSNO legislation and RMA amendments to address the following matters:

- reference to any historical legislation dealing with hazardous substances
- whether the regional council or territorial authority should retain primary responsibility for hazardous substances
- reference to relevant HSNO requirements for hazardous substances, including the fact HSNO controls constitute minimum performance standards (i.e., the bottom line), minimum degrees of hazards and the hazard classification system and the performance based approach to controls
- acknowledge how the RMA will become the main law that controls hazardous substances on a site-specific basis, particularly once the transition period for the HSNO Act of 3 – 5 years is completed
- identify all other hazardous substance matters not addressed by the HSNO Act, such as hazardous waste, infectious waste, by-products, radiation and contaminated sites
- integrated management of natural and physical resources, particularly as this relates to the control and management of hazardous substances, including the management of emergencies.



Notes

Key requirements for Regional Plans

Section 63 RMA describes the purpose of regional plans as being to assist regional councils to carry out their functions to achieve sustainable management.

In particular, regional coastal plans assist both the regional council and the Minister of Conservation in achieving sustainable management for the coastal marine area of that region.

Section 64 RMA requires that there be a regional coastal plan at all times for the coastal marine area prepared in the manner set out in the First Schedule of the RMA. The regional coastal plan may form part of another regional plan where it is integrated with provisions for the coastal environment.

Section 65 RMA describes how a regional council may have other regional plans, also prepared in the manner set out in the First Schedule of the RMA. Such regional plans may be prepared for the whole or part of the region and are to assist regional councils in carrying out their functions under the RMA. For example, regional plans may be prepared for land, air and water matters. (Section 65 has been amended by the Resource Management Amendment Act 2003, to repeal subsections (1) and (2) – refer to section 26 of the Amendment Act)

Section 65(3)(c) of the RMA identifies how regional plans may be prepared to address any threat from natural hazards or any actual or potential adverse effects of the storage, use, disposal or transportation of hazardous substances which may be avoided or mitigated.

There are further provisions in Section 66 RMA identifying matters to be addressed by regional plans, and in Section 67 RMA, guidance is given to the contents of regional plans. (Both sections 66 and 67 RMA have been amended through the provisions of the Resource Management Amendment Act 2003 – refer to sections 27 and 28).

Regional plans must give effect to any national policy statement or any New Zealand coastal policy statement and must not be inconsistent with:

- any water conservation order, or
- the regional policy statement or any other regional plan of the region concerned.

Regional plans will also need to address any relevant matters under MARPOL and the role of the Resource Management (Marine Pollution) regulations (refer to Module 3 for further details on Marpol).

In section 35 of the Resource Management Amendment Act 2003, a new section 78A is to be inserted which provides for a local authority to prepare a document that meets the requirements of 2 or more of the following:

- (a) a regional policy statement
- (b) a regional plan
- (c) a district plan

Provisions for rules

Section 68 RMA provides for regional rules to be included in the regional plans to assist the regional council carry out its functions under the RMA and achieve the objectives and policies of the plan. Section 68 RMA has been amended in section 29 of the Resource Management Amendment Act 2003, to simply refer to regional rules

These rules provide for permitted activities, controlled activities, discretionary activities, non-complying activities, prohibited activities, and restricted discretionary activities including restricted coastal activities, which are described in a new section 77A to 77D of the RMA (refer to section 34 of the Resource Management Amendment Act 2003).

The rules also provide relevant standards and terms for compliance, and need to address such matters as non-notification and whether any discretion is restricted to certain matters.

Requirements for consents

A rule may require a resource consent to be obtained for any activity not specifically referred to in the plan.

Under the RMA, certain activities are not permitted as of right unless expressly allowed by a rule in a regional plan or by way of a resource consent. This is relevant in the following situations:

- Section 12 RMA – restrictions on use of coastal marine area
- Section 13 RMA – restrictions on certain uses of beds of lakes and rivers
- Section 14 RMA – restrictions relating to water
- Section 15 RMA – discharge of contaminants into environment
- Section 15A RMA – restrictions on dumping and incineration of waste or other matter in the coastal marine area
- Section 15B RMA – discharges of harmful substances from ships or offshore installations
- Section 15C RMA – prohibitions in relation to radioactive waste or other radioactive matter and other waste in coastal marine area.



Notes

Review of regional plans in light of HSNO requirements

Regional plans need to address hazardous substances in the widest context to include not only those substances covered by HSNO, but also hazardous wastes, radioactive material, harmful substances and contaminants.

Definitions for contaminants and harmful substances are in Section 2 RMA, and the HSNO provisions of the Fourth Schedule introduce an amended definition of hazardous substances. This is covered in Module 2.

In light of the HSNO legislation, and in particular Section 142 HSNO, regional plans may need a review to address the following matters:

- Review of any reference to historical legislation dealing with hazardous substances
- Implications of the amended definition for hazardous substances
- Implications of the amended section 62 RMA and whether the regional council or territorial authorities should retain primary responsibility for hazardous substances
- consistency of regional plans with any changes to the regional policy statement
- changes to rules that relate to hazardous substances to reflect the minimum performance requirements of the HSNO Act, and that rules under the RMA may be more stringent than these.

Regional plans may also need to be amended where references are made to environmental/human health limits, to ensure these meet the minimum performance standards under the HSNO Act. These will affect the rules for the following aspects as they relate to discharges of hazardous substances into the environment:

- discharge onto or into land
- air discharges
- water discharges
- coastal permits
- any other type of land use activity involving hazardous substances.

5.2 REQUIREMENTS FOR DISTRICT PLANS UNDER HSNO AND RMA ACTS

Territorial authorities

Territorial authorities are responsible for managing the effects of land use activities, as per section 31 (b) RMA, which requires the control of effects from activities associated with hazardous substances i.e. to prevent or mitigate adverse effects.

Territorial authorities and regional councils must liaise closely to determine respective roles and responsibilities, and identify those functions in the regional policy statement.

These roles may be shared, or the territorial authority may take on full responsibility for land use planning matters relating to hazardous substances while the regional council controls planning for discharges of hazardous substances into the environment and discharge permits. Refer to sections 25 and 103 of the Resource Management Amendment Act 2003 which amend section 62 RMA and the Fourth Schedule of the HSNO Act 1996 respectively.

Territorial authorities use the district plan to manage and control the adverse effects and risks associated with hazardous substances, while regional councils use the regional policy statement and regional plans to address hazardous substances.

Key requirements of district plans

Section 9 RMA describes how a use of land must not contravene a rule in the district plan or proposed district plan unless allowed by a resource consent or it is an existing use.

Section 72 RMA describes that the purpose of district plans is to assist territorial authorities in carrying out their functions under the RMA to achieve sustainable management. Section 74 RMA describes those matters to be considered when preparing or changing a district plan and how the territorial authority shall have regard to the regional policy statement and regional plans.



Notes

Section 75 RMA further states that the district plan shall not be inconsistent with such regional council provisions, nor be inconsistent with any water conservation order, and it must give effect to any national policy statement or New Zealand coastal policy statement (refer to section 32 of the Resource Management Amendment Act 2003).

Section 75 RMA has been amended by section 32 of the Resource Management Amendment Act 2003 to set out the contents of district plans which includes:

- significant resource management issues
- objectives, policies and methods to address issues, with reasons and explanations for the provisions
- information on resource consent application requirements
- environmental results anticipated from the implementation of these provisions.

Section 76 RMA describes how the district plan can have rules to assist the territorial authority in achieving its functions under the RMA and the objectives and policies of the plan. The rules may provide for permitted activities, controlled activities, restricted discretionary activities, discretionary activities, non-complying activities and prohibited activities, as set out in the new sections 77A to 77D RMA (refer to section 34 of the Resource Management Amendment Act 2003).

The rules also identify standards and terms for compliance, any matters council has restricted its discretion over, and whether the resource consent may be considered without notification or the need to obtain the written approval of affected persons. Section 41 of the Resource Management Amendment Act 2003 provides amended details for notification, whether adverse effects are minor, and who may be adversely affected.



Notes

Addressing hazardous facilities under the district plan

District plans need to address the location of hazardous facilities as a land use activity involved with the use, storage and handling of hazardous substances. The district plans need to identify how neighbouring land use activities and the environment can be protected from the potential adverse effects and risk associated with hazardous facilities.

While the HSNO Act sets national bottom lines for exposure limits for a range of hazardous substances, district plans may need to set stricter limits if there is a sensitive environment nearby or there are concerns about cumulative effects.

District plans will also need to consider how to address those aspects not covered by the HSNO Act, such as radioactive substance related activities, hazardous waste and other activities with the potential to damage the environment, such as dairy sheds.

District Plan methods to address hazardous facilities and substances

Many territorial authorities have already incorporated methods for addressing the risks presented by the land use of hazardous substances into their district plans. One of these methods is the Hazardous Facilities Screening Procedure (HFSP), which enables a preliminary assessment of hazardous facilities to determine whether they need a resource consent, and a more detailed assessment of environmental effects and risks.

The HFSP can be made fully compliant with the HSNO Act. Therefore, those district plans, which adopt the HFSP, will ensure compliance with the minimum performance standards of the HSNO Act.

Other methods that have been adopted to manage the risks of the land use of hazardous substances include:

- classification of hazardous substances tables
- threshold systems with low, medium and high classes of hazardous substances
- reliance on regional council provisions

Additional detail on the HFSP and other land use planning methods for hazardous substances is presented in Module 4 of this manual.

**Alternative measures
in the district plan,
including measures
for hazardous
substances**

Territorial authorities are required to consider if rules on hazardous substances are necessary and whether any alternative can achieve the desired outcome more effectively to meet the requirements of Section 32 RMA.

An evaluation is necessary to assess the benefits and costs of adopting a particular method or rule. In this regard, when considering the use, storage, transportation or disposal of hazardous substances, it is necessary to consider all possible alternatives.

Aside from adopting a recognised method such as the HFSP for managing the land use of hazardous substances, there is a range of alternative methods territorial authorities may adopt for controlling the risks of hazardous substances.

*Hazardous substances
not covered by the
HSNO Act*

A district plan may adopt controls for hazardous substances that are not covered by the HSNO Act, for example radioactive or infectious substances

*Transport of hazardous
substances*

Transportation of hazardous substances is already addressed by existing Land Transport Rules and an associated New Zealand Standard (NZS 5433:1999) to deal with the land transport of dangerous goods.

However, territorial authorities may choose to adopt additional controls to manage the transport of hazardous substances locally and to protect residential areas or sensitive receiving environments such as wetlands or margins of rivers, lakes and the sea.

This could include the selection of preferred transport routes, even though it is noted that territorial authorities, in enforcing such provisions, cannot stop vehicles on the road (only the police can). An alternative means of enforcement are video cameras.

Another example for alternative controls of the transport of hazardous substances is the Lyttleton Tunnel, near Christchurch, where Transit New Zealand Act provisions for the state highway (SH74) are used. The TNZ Bylaw 1996-20 has been used to prohibit the transportation of certain classes of hazardous substances through the tunnel e.g. Class 3A flammables.

**Disposal of
hazardous
substances**

As the HSNO Act does not address mixed hazardous waste, district plans can adopt alternative methods to address disposal of such hazardous waste. District plans can also set additional controls on the disposal of waste hazardous substances. Alternative controls include a requirement to use authorised hazardous waste operators or landfill operations.

Changing role of district plans once the HSNO Act repeals historical legislation

The RMA will become the main law that allows additional controls on hazardous substances to be placed on a site-specific basis, once the transfer of hazardous substances under the HSNO Act is complete.

For example, Dangerous Goods related licences under the transitional provisions of the HSNO Act still address site-related matters such as safe separation distances, protected works and public places. The Chief Inspector for Dangerous Goods and appointed Dangerous Goods Officers also have some discretion to provide direction for site-specific factors.

These transitional controls will go once the transfer of “existing” hazardous substances under the HSNO Act has been completed in the stages already described (refer Module 3).

Test certificates under the HSNO Act will replace these controls to the degree where they are required (mainly for highly hazardous substances). However, additional controls can be placed on hazardous substances under the RMA, where this is indicated by site-specific circumstances.

Review of district plans in light of HSNO requirements

The advent of the HSNO Act means that district plans need to be reviewed to ensure that they address the following matters:

- acknowledge the introduction of the HSNO legislation and its effect on the RMA
- review of any references to historical legislation
- amendments to the RMA as identified in the Fourth Schedule of the HSNO Act, including an amended definition for hazardous substances, and repealing Part XIII RMA. (Refer to section 103 of the Resource Management Amendment Act 2003 for amendments to the HSNO Act 1996)
- amendments to section 62 RMA which require the regional policy statement to identify which local authority retains primary responsibility for hazardous substances, otherwise this function will be retained by the territorial authorities. (Refer to section 25 of the Resource Management Amendment Act 2003)
- acknowledging national bottom lines under the HSNO Act and identifying where stricter limits will be required to safeguard sensitive environments
- adequate provision, over and above HSNO controls, for safe separation distances, site layout and design, site drainage and stormwater, bunding and spill containment, storage provisions, cleaning and wash down areas, underground storage tanks, signage, and waste management

- identify hazardous substances not covered by the HSNO Act and provide additional controls where deemed necessary.

The district plan review also needs to take into account whether any amendments are required in the approach to the following aspects:

- land use standards
- zoning or areas of environmental effects
- minimum performance standards
- methods to assess the potential adverse effects and risk associated with a proposed hazardous facility
- compliance with other legislative requirements, codes of practice, education, or awareness programmes.



Notes

5.3 ACTIVITY STANDARDS UNDER THE RMA AND MINIMUM PERFORMANCE STANDARDS UNDER THE HSNO ACT

Activity standards in plans under the RMA

Each regional and district plan identifies those activities which are permitted in certain circumstances or land use zones. These permitted activities are only permitted if they meet minimum performance measures.

These minimum performance measures are activity standards that are used in the first instance to help determine if a proposed hazardous facility/activity is permitted. They are also used as a guideline in the assessment of environmental effects for the application where a resource consent is required.

What is the relationship between HSNO minimum

In a **regional plan**, activity standards are set for such matters as discharge concentrations, rate of discharge, and measurable depths of water or measurable separation distances where discharges are

performance standards and regional plans?

of water or measurable separation distances where discharges are permitted.

It is necessary for regional plan activity standards to meet HSNO minimum performance standards - especially environmental exposure limits in the context of discharge consents - to ensure full compliance with the HSNO Act, particularly once the transition period is completed.

Regional plans are to be as strict as the HSNO controls, although they may set stricter limits where necessary. This will involve assessing whether any rules within their regional plans conflict with minimum performance standards set by the Authority.

It is unlikely that any permitted activity thresholds specified in regional plans will be inconsistent with HSNO minimum performance standards. Permitted activity thresholds are usually set at a level where any resulting effect is considered to be de minimis, whereas HSNO minimum performance standards are set at a level where there is a low risk of an adverse environmental effect.



Notes

However any controlled, discretionary or prohibited rules within regional plans that specify thresholds will need to meet relevant HSNO minimum performance standards. If plan rules are subsequently altered, resource consents may then need to be subsequently reviewed as well.

Under section 128(1)(b) RMA, a consent authority may review the conditions of a resource consent where a regional plan has been made operative which sets certain standards, and it is deemed appropriate to review the conditions of a water, coastal or discharge permit in order to enable the levels, flows, rates, or standards set by the rule to be met.

Section 54 of the Resource Management Amendment Act 2003, provides an additional circumstance when consent conditions can be reviewed under section 128(1)(ba) RMA:

What is the relationship between HSNO minimum performance standards and district plans?

“(ba) in the case of a water, coastal, or discharge permit, when relevant national environmental standards have been made under section 43”

Refer to Module 6 for examples of a review clause pursuant to s.128 RMA and supporting information on how to use them.

The Authority sets exposure limits (EELs and TELs) on a range of hazardous substances as part of their approval. These limits define acceptable exposure levels of the environment and humans in a range of environmental media (refer Module 4). As these have to be met under the RMA as well, they become of key importance in any rules and resource consent conditions for discharges to the environment. More detail on the use of EELs and TELs are provided in Module 6 of this manual.

District Plan activity standards for hazardous substances are more land use focused, such as site separation distances, spill containment, drainage and storage. These standards cannot be any less stringent than the performance standards set by the HSNO Act. Stricter limits will be set under the district plan where necessary due to the close proximity of a sensitive environment.

Additional controls under the RMA can be used where necessary – for example relating to location, amount and concentration of hazardous substances on a site – by taking account of site-specific characteristics and the surrounding environment

Relationship between RMA activity standards, and HSNO performance standards and codes of practice

An important role of HSNO performance standards is to enable the Authority to provide a clear, unambiguous direction of what is an acceptable risk of a hazardous substance when it is used, stored, transported or disposed of. These then become minimum performance requirements that have to be met under any other legislation as well.

This includes standards for the off-site movement of an ecotoxic or toxic substance (specifying exposure limits is far more enforceable than stating that “the use of a hazardous substance shall not result in such a manner that adverse effects on aquatic organisms occur”).

Approved codes of practice will be used by the Authority as a means to show how HSNO performance standards can be legally met, and to ensure that the majority of end-users will comply with HSNO controls.

Regional and district plans often have provisions that allow for activities to be classified as permitted, controlled, or discretionary dependant upon whether the operator complies with an approved code

of practice.

If the Authority approves these codes of practice, councils could then ensure that their plan requirements are not less stringent than the HSNO controls by reference to approved codes of practice.

Councils should exercise caution when adopting any approved code of practice into a plan, as they can change without the public input process provided under the RMA. It is useful to refer to a code of practice, together with the relevant date when approved. Any updated versions could be referred to by way of a plan change. Alternatively, codes of practice can be referred to in the explanations in the respective plans as a means of compliance.

If a user deviates significantly from a code of practice specified in a plan, then a council would prosecute under the RMA. If investigations reveal that a HSNO performance control has been exceeded, then prosecution could also be undertaken by the relevant enforcement agency specified under the HSNO Act.

Therefore the HSNO Act allows for councils to base their controls on a 'code of practice' type of approach or directly on HSNO performance standards.



Notes

5.4 REVIEW OF POLICY STATEMENTS AND PLANS, PLAN CHANGE AND VARIATION PROCEDURES

Review of policy statements and plans

When the RMA came into force, all local authorities were required to prepare new policy statements and plans to achieve the purpose of the Act when carrying out their functions and duties. The purpose of the RMA is to promote the sustainable management of natural and physical resources. The existing planning schemes prepared under the previous Town and Country Planning Act are known as transitional plans, being the operative plans which remain in force until the new policy statements and plans subsequently become operative.

Once operative, plans and policy statements are to be reviewed by the local authority no later than ten years after becoming operative.

Upon completing a review of a plan or policy statement, local authorities have two options:

- if a plan or policy statement requires changing or replacing, the council must make the change or replacement in the manner set out in First Schedule
- a council may be satisfied the plan or policy statement can remain in place without requiring change or replacement. The council then publicly notifies the plan or policy statement as if it were the new proposed plan/policy statement, in the manner set out in the First Schedule.

Policy statements and plans remain operative while they are being reviewed.

Section 79 RMA provides specific details on review requirements for policy statements and plans.



Notes

Plan Changes and Variation Procedures

While a plan or policy statement is in the “proposed” stage, sections may be altered or withdrawn altogether by way of a plan variation. This can only be initiated by a local authority. The procedure is guided by the requirements of the First Schedule of the RMA.

Any alteration or withdrawal of sections of a transitional plan are undertaken as a plan change and also guided by the requirements of the First Schedule of the RMA.

It is common for both a variation to the proposed plan and a plan change to the transitional plan to be undertaken concurrently, where the same changes are made to both plans.

Anyone can request a change to a regional or district plan, however only a Minister of the Crown or the local authority can request a change to a regional policy statement.

Response to HSNO requirements

Each local authority may need to consider if any changes are required in response to the new HSNO requirements. For example, regional policy statements may need to be amended pursuant to the amended Section 62 (1), which now identifies that the relevant territorial authority shall retain primary responsibility for the hazardous substances.

Each local authority may also need to determine whether a plan change is required for any operative provisions that need to be amended, or whether a plan variation is necessary for proposed pan provisions.

Alternatively, the local authority may include any necessary changes as part of the review process of the policy statement or plan.



Key application

If applicable, list down some key points from this module that apply to your day-to-day working environment.
