

**BEFORE THE INDEPENDENT HEARINGS PANEL
APPOINTED ON BEHALF OF THE TIMARU DISTRICT COUNCIL**

UNDER the Resource Management Act 1991

AND

IN THE MATTER OF Technical Review of Draft Decision

AND PrimePort / TDHL (Submitter 175/186)
and
Timaru District Council

**JOINT WITNESS STATEMENT PROVIDING TECHNICAL FEEDBACK
Planning**

Dated: 3 March 2026

1 INTRODUCTION

1.1 This joint witness statement relates to the technical review of the Draft Decision documents, undertaken by PrimePort and Timaru District Holdings Ltd (TDHL) (Submitters 175 and 186), and specifically:

- i. Policy HS-P1 New major hazard facilities and additions to existing major hazard facilities;
- ii. Rule HS-R1 Use and/or storage of hazardous substances in a hazardous facility (excluding major hazard facilities); and
- iii. Policy EI-R6 Application of provisions.

1.2 PrimePort and TDHL have undertaken a technical review of the Draft Decision documents, as directed by the Panel in Minute 53. Through that review, issues were identified in respect of the wording of the above listed provisions. Whilst those issues were identified and discussed with Timaru District Council (**Council**) prior to the 3 February 2026 deadline for Council technical feedback, there was insufficient time to coordinate an agreed response between the parties before that date.

1.3 The Council and PrimePort/TDHL planners have continued discussions, and this Joint Witness Statement (**JWS**) represents the agreed position of those parties, and specifically:

- (a) Kim Seaton on behalf of PrimePort and Timaru District Holdings Ltd.
- (b) Andrew Willis on behalf of Timaru District Council.

1.4 This JWS has been prepared in accordance with sections 9.4 and 9.5 of the Environment Court Practice Note 2023, which relates specifically to expert conferencing. The attendees confirm they have read, and agree to abide with, the updated Code of Conduct for Expert Witnesses included in Section 9 of the Environment Court Practice Note 2023.

1.5 This JWS sets out all matters agreed by the experts. There are no areas of disagreement.

HAZARDOUS SUBSTANCES POLICY HS-P1 NEW MAJOR HAZARD FACILITIES AND ADDITIONS TO EXISTING MAJOR HAZARD FACILITIES

2 Background

2.1 The parties have agreed that an oversight has occurred through the hearing process that has resulted in the draft decision on Policy HS-P1 being inconsistent with the provisions of the Natural Hazards and Port Zone chapters. Briefly:

- (a) All parties are agreed that major hazard facilities have a functional and operational need to locate in the Port Zone.

- (b) The Port Zone is subject to natural hazards, and large parts of the Port Zone are likely to meet the definition of a High Hazard Area (per the Draft Decision definition clause 2(b)).
- (c) The PrimePort and TDHL original submission on Policy HS-P1 opposed Clause (3) of the policy, seeking that it be amended to exclude its application to the Port Zone.
- (d) In response, Mr Willis through the Section 42A Report for Hearing Stream D, proposed amendments to Clause 3 of the policy and the introduction of a new defined term “sensitive locations”, in an attempt to resolve the issue.
- (e) During Hearing Stream D, Ms Seaton’s Statement of Primary Evidence stated that Clause 3 of Policy HS-P1 was still opposed on the grounds that it would be onerous and impractical to implement within the Port Zone, as it could potentially restrict the location of new or additional major hazard facilities in the Port Zone, and the proposed amendments set out in the Section 42A Report did not resolve the identified issues¹.
- (f) Mr Willis’s Interim Reply for Hearing Stream D, dated 18 December 2024, stated that the definition of sensitive environments, Policy HS-P1(3) and proposed new Policy HS-PX (now Policy HS-P5 in the Draft Decision), were matters that would be addressed in Hearing Stream F, when the approach to natural hazard management within the Port Zone was finalised.
- (g) In an oversight, Policy HS-P1 was not revisited in Hearing Stream F. Policy HS-P1 as contained in the Draft Decision, therefore remains seeking to “avoid” new or additions to major hazard facilities in high hazard areas of the Port Zone. This is inconsistent with the approach otherwise adopted in the Natural Hazards and Port Zone chapters, which is to be enabling to a wide range of facilities that need, for operational or functional reasons, to locate in the Port Zone, subject to hazards being mitigated as far as practicable.

2.2 In our view, this is a technical error that needs to be remedied to fix both the oversight in not returning to Policy HS-P1 in Hearing Stream F, and the resultant inconsistency within the District Plan. We also emphasise that the amendment we propose to remedy this issue in Policy HS-P1 does not provide a permitted pathway for major hazard facilities in the Port Zone, it simply enables such facilities to be assessed through a resource consent application under Rule HS-R2 Maintenance, repair, upgrades, additions and alterations of major hazard facilities, and Rule HS-R4 New major hazard facilities.

3 Recommended Amendment to Policy HS-P1

3.1 The parties have agreed on a revised Policy HS-P1 (appended to this JWS as **Appendix 1**) that will more appropriately enable consideration of new or additions to major hazard facilities in the Port Zone, including high hazard areas. The proposed change is broadly consistent with the Statement of Primary Evidence of Ms Seaton for Hearing Stream D, where she sought a clear exemption for

¹ Ms Seaton’s Statement of Primary Evidence Hearing Stream D, paragraphs 19-31.

the Port Zone within Policy HS-P1(3)². The proposed amendment creates better consistency with other Draft Decision objectives and policies, including (our emphasis):

- (a) Objective NH-O1 Risk to human life and significant risk to property, from natural hazards is:
 - 1. avoided in high hazard areas that are outside of urban zoned areas; and
 - 2. avoided or mitigated in high hazard areas that are within urban zoned areas; and
 - 3. avoided or mitigated in all other areas to an acceptable level.
- (b) Objective NH-O3 Regionally Significant Infrastructure - Risk from natural hazards to regionally significant infrastructure is managed by locating outside of high hazard areas where practicable.
- (c) Objective NH-O6 Adaptive management at the Port - Recognise that the Port Zone is subject to natural hazards and provide for the ongoing use of the Port of Timaru and activities with an operational need or functional need for their co-location with the Port, while managing natural hazards risk appropriately.

HAZARDOUS SUBSTANCES RULE HS-R1

4 Background and Recommended Amendment

- 4.1 PrimePort and TDHL opposed Rule HS-R1 Use and/or storage of hazardous substances in a hazardous facility (excluding major hazard facilities), clause PER-1, in Hearing D³. The basis for opposition was that the rule inappropriately would require resource consents for hazardous facilities across most of the Port Zone (as a “sensitive location” and likely high hazard area per proposed definitions at that time) and be onerous for that reason. As with Policy HS-P1, Mr Willis agreed in his Interim Reply⁴ that Rule HS-R1 would need to be revisited at Hearing F. As with Policy HS-P1, this was later overlooked and Rule HS-R1 was not revisited.
- 4.2 In the course of reviewing Rule HS-R1 for this JWS, we have identified that structurally the rule does not make sense as written because of the “and” that links PER-1 and PER-2 of the rule, and more hazardous facilities will be captured by the rule and require resource consent than was intended. This is the case both within the Port Zone and across the wider Timaru District. Applying the rule as drafted would mean that even if the floor level of buildings were raised above the flood level, consent would still be required for flooding reasons under PER-1. PER-2 therefore would be redundant. An amendment is proposed as set out in **Appendix 1** of this JWS which resolves the relationship between PER-1 and PER-2 in relation to flood hazards. The amendment makes clear that where flood hazard (whether fluvial or sea inundation related) is the only sensitive location issue

² Ms Seaton’s Statement of Primary Evidence Hearing Stream D, paragraphs 27-29.

³ Ms Seaton’s Statement of Primary Evidence Hearing Stream D, paragraphs 39-40.

⁴ Paragraph 7 of Mr Willis’s Interim Reply for Hearing Stream D.

applicable to a site, and floor levels are raised in accordance with PER-2, PER-1 does not apply (and no resource consent is therefore required).

ENERGY AND INFRASTRUCTURE POLICY EI-P6

5 Comment

5.1 Through the course of Hearing Stream E, we negotiated and agreed introductory wording to the objectives and policies of the Energy and Infrastructure (EI) chapter, that made clear that the objectives and policies of the EI chapter took precedence over the objectives and policies of any zone chapter. The wording also made clear this was not the case for Port of Timaru operations, where the zone chapter provisions would take precedence. The phrase “Port of Timaru operations” was deliberately used, rather than “Port Zone”. The reason being that the Port Zone contains other regionally significant infrastructure (RSI) and lifeline utilities (LU) (e.g. KiwiRail) that rely on the EI chapter provisions (objectives, policies and rules) to establish and operate. For the most part, the Port Zone objectives and policies do not explicitly enable other RSI or LU.

5.2 The Draft Decision for the EI chapter has taken the introductory text we refer to in paragraph 5.1 and instead crafted that text into a policy (Policy EI-P6 Application of provisions). We have no issue with Policy EI-P6 in principle. However, the policy refers to the “Port Zone”, rather than the “Port of Timaru operations”:

‘Except for the Port Zone, when considering activities involving regionally significant infrastructure or lifeline utilities, in the event of a conflict between the objectives and policies of this chapter and those of a zone chapter, the objectives and policies of this chapter are to be given greater weight.’

5.3 We draw this to the Panel’s attention, to check whether referencing the “Port Zone” rather than “Port of Timaru operations” was intentional, or an error. The policy as worded, referencing the Port Zone, effectively results in other non-Port of Timaru RSI and LU operating in the Port Zone, losing their intended policy support under the EI chapter.

5.4 We also note that there were no submissions seeking removal of that policy support, so there does not appear to be any scope for the change that has been drafted.

Signed:



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Kim Seaton



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Andrew Willis

Appendix 1 – Proposed Amended Provisions (our amendments highlighted in **blue**)

Policies	
HS-P1	New <u>M</u>major <u>H</u>azard <u>F</u>acilities and additions to existing <u>M</u>major <u>H</u>azard <u>F</u>acilities
	<p>1. using Quantitative Risk Assessments to ensure <u>there is no unacceptable risk</u> the risk of an individual human fatality is not greater than 1×10^{-6} per year (one in a million), including cumulative effects; ⁷ and</p> <p>2. ensuring <u>M</u>major <u>H</u>azard <u>F</u>acilities do not cause unacceptable cumulative effects by locating too close to each other; and</p> <p>3. locating <u>new</u> <u>M</u>major <u>H</u>azard <u>F</u>acilities outside of sensitive <u>locations</u> environments⁹, except for:</p> <ul style="list-style-type: none"><u>a. <u>N</u>natural <u>h</u>azard <u>a</u>reas (not defined as a <u>H</u>igh <u>H</u>azard <u>A</u>rea)³; and</u> <u>and</u><u>b. <u>The Port Zone, including high hazard areas where the adverse effects of natural hazards on major hazard facilities are avoided or minimised, taking into account operational and functional needs.</u></u> <p>4. ensuring, in <u>n</u>Natural <u>h</u>azard <u>a</u>reas (not defined as a <u>H</u>igh <u>H</u>azard <u>A</u>rea), suitable measures are to undertaken to:</p> <ul style="list-style-type: none">a. avoid or minimise adverse effects from natural hazards on hazardous facilities and¹⁰ <u>M</u>major <u>H</u>azard <u>F</u>acilities; andb. minimise the risk of hazardous substances entering the environment in the event of a natural hazard event.¹¹

HS-R1	Use and/or storage of hazardous substances in a hazardous facility (excluding M major H azard F acilities)	
All zones	<p>Activity status: Permitted Where:</p> <p>PER-1 The hazardous facility is located outside a of sensitive locations environment (other than a Flood Assessment Area Overlay), ¹⁷ <u>except that hazardous facilities located underground or that meet PER-2 do not need to be located outside of Hhigh Hazard Areas, or the Sea Water Inundation Overlay;</u> ¹⁸ and</p> <p>PER-2 <u>If located above ground The activity is and</u>¹⁹ <u>within a Flood Assessment Area Overlay, and the hazardous facility has a finished floor level equal to or higher than the minimum floor level as stated in a Flood Assessment Risk Certificate issued in accordance with NH-S1.</u></p>	<p>Activity status when compliance not achieved: Restricted Discretionary</p> <p><u>Matters of Discretion is <u>are</u> restricted to:</u></p> <ol style="list-style-type: none"> 1. T<u>he level of risk relating to likelihood and consequence of the natural hazard and the toxicity, volume, characteristics, and potential consequences of the hazardous substance; and</u> 2. T<u>he extent to which hazardous substances can be safely contained to minimise effects from natural hazards;</u> <u>and</u> 3. P<u>otential effects on land use activities in the surrounding area; and</u> 4. T<u>he potential effects on natural ecosystems, sensitive <u>locations environments</u>²⁰ and life-supporting capacity of land and water from escape or spillage; and</u> 5. P<u>otential risk and effects on SASM <u>within the sensitive locations;</u></u> ²¹ and 6. P<u>otential risk to human health and safety; and</u> 7. P<u>otential effects on natural character and the amenity of sensitive areas and sensitive uses;</u> and ²² 8. P<u>otential for cumulative effects of other activities where hazardous substances are stored, used or disposed of; <u>and</u></u> <u>8. <u>the potential adverse effects on the spiritual and cultural values and beliefs of Kāti Huirapa within the sensitive locations, and any measures to avoid, remedy or mitigate adverse effects.</u></u> ²³