

**LIFE SCIENCES NETWORK – WAIKATO DISTRICT PLAN
COMPARISON OF HSNO AND RMA PROVISIONS**

Title	HSNO 1996	RMA 1991	Comments
Purpose of the statute			
	<p>4 Purpose of Act The purpose of this Act is to protect the environment, and the health and safety of people and communities, by preventing or managing the adverse effects of hazardous substances and new organisms.</p>	<p>5 Purpose (1) The purpose of this Act is to promote the sustainable management of natural and physical resources. (2) In this Act, <i>sustainable management</i> means managing the use, development, and protection of natural and physical resources in a way, or at a rate, which enables people and communities to provide for their social, economic, and cultural well-being and for their health and safety while— (a) sustaining the potential of natural and physical resources (excluding minerals) to meet the reasonably foreseeable needs of future generations; and (b) safeguarding the life-supporting capacity of air, water, soil, and ecosystems; and (c) avoiding, remedying, or mitigating any adverse effects of activities on the environment.</p>	<ul style="list-style-type: none"> • HSNO has dual purposes: (1) protecting the environment; (2) protecting the health and safety of people and communities. • ‘Protecting’ is not defined in either RMA or HSNO. No reason to give ‘protecting’ in HSNO a narrow definition. ‘Environment’ is widely defined (and in identical terms) in both RMA and HSNO. No reason to give the HSNO definition a more restrictive meaning/scope than RMA. ‘Environment’ includes people and communities and includes economic and cultural conditions that affect people and communities. • Difficult to see that in relation to GMOs how the RMA has a wider purpose or scope than HSNO.

Principles/matters of national importance			
	<p>5 Principles relevant to purpose of Act All persons exercising functions, powers, and duties under this Act shall, to achieve the purpose of this Act, recognise and provide for the following principles: (a) the safeguarding of the life-supporting capacity of air, water, soil, and ecosystems: (b) the maintenance and enhancement of the capacity of people and communities to provide for their own economic, social, and cultural well-being and for the reasonably foreseeable needs of future generations.</p> <p>6 Matters relevant to purpose of Act All persons exercising functions, powers, and duties under this Act shall, to achieve the purpose of this Act, take into account the following matters: (a) the sustainability of all native and valued introduced flora and fauna: (b) the intrinsic value of ecosystems: (c) public health: (d) the relationship of Maori and their culture and traditions with their ancestral lands, water, sites, waahi tapu, valued flora and fauna, and other taonga:</p>	<p>6 Matters of national importance In achieving the purpose of this Act, all persons exercising functions and powers under it, in relation to managing the use, development, and protection of natural and physical resources, shall recognise and provide for the following matters of national importance: (as relevant) (a) the preservation of the natural character of the coastal environment (including the coastal marine area), wetlands, and lakes and rivers and their margins, ...: (b) ...: (c) the protection of areas of significant indigenous vegetation and significant habitats of indigenous fauna: (d) ...: (e) the relationship of Maori and their culture and traditions with their ancestral lands, water, sites, waahi tapu, and other taonga: (f) ... (g) ... (h) ...</p>	<ul style="list-style-type: none"> • ‘Recognise and provide for’ is a stronger obligation than ‘take into account’ or ‘have regard to’. • HSNO’s requirement to recognise and provide for the 2 listed issues equates that with the meaning of sustainable management from the purpose of the RMA. • ‘Take into account’ relationship of Maori with their ancestral lands etc in HSNO is a lower obligation than ‘recognise and provide for’ those same issues in RMA. But it is unclear if this is likely to make a practical difference in outcome, given s5(b) of HSNO which is to recognise and provide for communities providing for their cultural wellbeing. • HSNO has take into account ‘sustainability’ of flora and fauna while RMA has recognise and provide for the protection of significant flora and fauna. But again, it is unclear if this is likely to result in a practical difference

	<p>(e) the economic and related benefits and costs of using a particular hazardous substance or new organism: (f) New Zealand’s international obligations.</p> <p>7 Precautionary approach All persons exercising functions, powers, and duties under this Act including, but not limited to, functions, powers, and duties under sections 28A, 29, 32, 38, 45, and 48, shall take into account the need for caution in managing adverse effects where there is scientific and technical uncertainty about those effects.</p>	<p>7 Other matters In achieving the purpose of this Act, all persons exercising functions and powers under it, in relation to managing the use, development, and protection of natural and physical resources, shall have particular regard to— (as relevant)</p> <p>(a) kaitiakitanga: (aa) the ethic of stewardship: (b) the efficient use and development of natural and physical resources: (ba) ...: (c) the maintenance and enhancement of amenity values: (d) intrinsic values of ecosystems: (e) ... (f) maintenance and enhancement of the quality of the environment: (g) any finite characteristics of natural and physical resources: (h) ...: (i) the effects of climate change: (j) ...</p>	<p>in outcome when one of the dual purposes of HSNO is the ‘protection of the environment’.</p> <ul style="list-style-type: none"> • There is no RMA equivalent to s7 HSNO requiring a precautionary approach. • Under s7 the EPA need only to take account of a precautionary approach, rather than give effect to or provide for. However, failure to apply it when necessary would be judicially reviewable (or challengeable on appeal to the High Court) and exercising caution is inherent in both HSNO and RMA.
Treaty of Waitangi			
	<p>8 Treaty of Waitangi All persons exercising powers and functions under this Act shall take into</p>	<p>8 Treaty of Waitangi In achieving the purpose of this Act, all persons exercising functions and powers under it, in relation to managing the use,</p>	<ul style="list-style-type: none"> • Identical obligations

	account the principles of the Treaty of Waitangi (Te Tiriti o Waitangi) .	development, and protection of natural and physical resources, shall take into account the principles of the Treaty of Waitangi (Te Tiriti o Waitangi).	
Definition of environment	<i>environment</i> includes— (a) ecosystems and their constituent parts, including people and communities; and (b) all natural and physical resources; and (c) amenity values; and (d) the social, economic, aesthetic, and cultural conditions which affect the matters stated in paragraphs (a) to (c) or which are affected by those matters	<i>environment</i> includes— (a) ecosystems and their constituent parts, including people and communities; and (b) all natural and physical resources; and (c) amenity values; and (d) the social, economic, aesthetic, and cultural conditions which affect the matters stated in paragraphs (a) to (c) or which are affected by those matters	<ul style="list-style-type: none"> • Identical definition
Definition of amenity values	<i>amenity values</i> means those natural or physical qualities and characteristics of an area that contribute to people’s appreciation of its pleasantness, aesthetic coherence, and cultural and recreational attributes	<i>amenity values</i> means those natural or physical qualities and characteristics of an area that contribute to people’s appreciation of its pleasantness, aesthetic coherence, and cultural and recreational attributes	<ul style="list-style-type: none"> • Identical definition
Definition of intrinsic values	<i>intrinsic values</i> , in relation to ecosystems, means those aspects of ecosystems and their constituent parts which have value in their own right, including— (a) their biological and genetic diversity; and (b) the essential characteristics that determine an ecosystem’s integrity, form, functioning, and resilience	<i>intrinsic values</i> , in relation to ecosystems, means those aspects of ecosystems and their constituent parts which have value in their own right, including— (a) their biological and genetic diversity; and (b) the essential characteristics that determine an ecosystem’s integrity, form, functioning, and resilience	<ul style="list-style-type: none"> • Identical definition

<p>Definition of kaitiakitanga</p>	<p>-</p>	<p><i>kaitiakitanga</i> means the exercise of guardianship by the tangata whenua of an area in accordance with tikanga Maori in relation to natural and physical resources; and includes the ethic of stewardship</p>	<ul style="list-style-type: none"> • Not referred to in HSNO, but inherent in s6(d) and 8 HSNO
<p>Meaning of effect</p>	<p><i>effect</i> includes— (a) any potential or probable effect; and (b) any positive or adverse effect; and (c) any temporary or permanent effect; and (d) any past, present, or future effects; and (e) any acute or chronic effect; and (f) any cumulative effect which arises over time or in combination with other effects</p>	<p>3 Meaning of effect In this Act, unless the context otherwise requires, the term <i>effect</i> includes— (a) any positive or adverse effect; and (b) any temporary or permanent effect; and (c) any past, present, or future effect; and (d) any cumulative effect which arises over time or in combination with other effects— regardless of the scale, intensity, duration, or frequency of the effect, and also includes— (e) any potential effect of high probability; and (f) any potential effect of low probability which has a high potential impact.</p>	<ul style="list-style-type: none"> • Some wording differences relating to cumulative effects, but they do not appear to have any consequence, and HSNO adds the clause ‘any acute or chronic effect’. Given the definitions are inclusive rather than definitive, there seems no substantive difference between the two definitions.