

Chapter 10 Hazardous substances and contaminated land

10.1 Hazardous Substances

10.1.1 Introduction

Hazardous substances are used in a wide range of activities within Waikato District. These activities can include industrial operations (for example chemical warehousing, manufacturing plants or bulk storage facilities), workshops, agricultural and horticultural activities, and some occupations that are carried out from home. Such use creates potential for adverse effects on human health and property. The provisions of this chapter are designed to prevent or minimise adverse effects of activities that use, store, or dispose of hazardous substances.

The use of hazardous substances is primarily managed by the Hazardous Substances and New Organisms Act 1996 (HSNO) and the Health and Safety at Work Act 2015 (HSW). The HSNO Act controls hazardous substances during their entire life cycle.

The Resource Management Act provides scope for additional controls for hazardous substances where the regulations of HSNO and HSW do not address a resource management issue that has been identified for the district.

The district plan seeks to avoid duplication of regulations with HSNO and HSW so the district plan relies on the HSNO and HSW regulations and includes provisions relate to location of major hazardous facilities and separation of incompatible activities, such as sensitive land uses.

Objective 10.1.1

- a) Risks associated with the storage, use or disposal of hazardous substances are managed to ensure that the effects of people, property and the environment are acceptable while recognising the benefits of storing, using or disposing of hazardous substances.

Policy 10.1.2 Storage of hazardous substances

New facilities to store hazardous substances minimise the risk to the environment by:

- i) Siting in locations that are separated from incompatible activities, such as sensitive land uses and the National Grid
- ii) Major hazardous facilities are located, designed, constructed and operated so that off-site risk is at acceptable levels for the surrounding environment

Policy 10.1.3 Assessment of risks of hazardous substances

Major hazardous facilities shall identify and assess potential adverse effects (including cumulative risks and potential effects of identified natural hazards) to prevent unacceptable levels of risk to human health, property and the natural environment.

Policy 10.1.4 – Reverse sensitivity effects

Avoid reverse sensitivity effects by ensuring that sensitive land use activities are separated from areas where use and storage of hazardous substances is lawfully established.

Rule 10.3.1 - Hazardous Substances in All Zones (excluding any specific provisions sought by the Oil Companies)

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| P1 | The use, storage or disposal of any hazardous substances meeting HSNO and HSW Hazardous Substance regulations |
| RDA | The use, storage or disposal of any hazardous substances not meeting HSNO and HSW Hazardous Substance regulations |
| D | Major hazardous facility |

Definitions – relating to hazardous substances

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| Hazardous substance | <p>Has the same meaning as in section 2 of the RMA:</p> <p>Includes, but is not limited to, any substance defined in section 2 of the Hazardous Substances and New Organisms Act 1996 as a hazardous substance.</p> <p>The Hazardous Substances and New Organisms Act 1996 defines hazardous substances as meaning, unless expressly provided otherwise by regulations or an EPA notice, any substance—</p> <p>a. with 1 or more of the following intrinsic properties:</p> <ul style="list-style-type: none"> i. explosiveness; ii. flammability; iii. a capacity to oxidise; iv. corrosiveness; v. toxicity (including chronic toxicity); vi. ecotoxicity, with or without bioaccumulation; or <p>b. which on contact with air or water (other than air or water where the temperature or pressure has been artificially increased or decreased) generates a substance with any 1 or more of the properties specified in paragraph (a).</p> |
| Hazardous Facility | <p>Means activities involving hazardous substances and premises at which these substances are used, stored or disposed of. Storage includes vehicles for their transport located at a facility for more than short periods of time and excludes:</p> <ul style="list-style-type: none"> • fuel stored in mobile plants, motor vehicles, boats and small engines; • the incidental use and storage of hazardous substances in domestic scale quantities; • activities involving sub classes 1.4, 1.5, 1.6, 6.1D, 6.1E, 6.3, 6.4, 6.5, 9.1D, 9.2D and 9.3. |
| Major hazardous facility | <p>Means the use of land and/or buildings (or any part of) for one or more of the following activities:</p> <ol style="list-style-type: none"> 1. Manufacturing and associated storage of hazardous substances (including manufacture of agrichemicals, fertilisers, acids/alkalis or paints). 2. Petroleum exploration and petroleum production. 3. The above ground storage/use of more than 50,000L of petrol. 4. The above ground storage/use of more than 100,000L of diesel. 5. The storage/use of more than 6 tonnes of LPG. |

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| | 6. Galvanising plants. 7. Electroplating and metal treatment. 8. Tanneries. 9. Timber treatment. 10. Freezing works and rendering plants. 11. Wastewater treatment plants. 12. Metal smelting and refining (including battery refining or recycling). 13. Milk processing plants (except where milk processing plant is specifically designed to contain and store milk so that any reasonably potential spillage of milk is contained within the site of the plant until it can be disposed of to an approved wastewater system). 14. Fibreglass manufacturing. 15. Polymer foam manufacturing |
| Storage | Means in the context of hazardous substances or hazardous waste, the containment of a hazardous substance or hazardous waste, either above ground or underground, in enclosed packages, containers or tanks. It includes vehicles used to transport any hazardous substance that are stationary within a hazardous facility for more than short periods of time. |
| Use | Means in the context of a hazardous substance, the manufacturing, processing or handling of a hazardous substance for a particular activity without necessarily changing the physical state or chemical structure of the hazardous substance involved. This includes mixing, blending and packaging operations, or the use of a hazardous substance as a cooling or heating medium. It does not include the filling or drawing of a hazardous substance from bulk storage tanks unless the processing is permanently connected to the bulk storage, and does not include loading out and dispensing of petroleum products <u>or the use and application of agrichemicals and fertilisers.</u> |

Appendix 5: Hazardous Substances

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Restricted discretionary – Matters of discretion

RD1 The use, storage or disposal of any hazardous substances that does not comply with 10.3.1 P1 (and others as appropriate).

Council's discretion shall be restricted to the following matters:

- (i) the proposed operation and site layout;
- (ii) the separation distances from the receiving environment and other land uses;
- (iii) the degree and acceptability of residual risk;
- (iv) consideration of potential health and environmental hazards and exposure pathways arising from the proposed use, storage or disposal of hazardous substances
- (v) minimising potential cumulative risks including in conjunction with other activities that use hazardous substances; and
- (vi) measures to minimise or mitigate potential adverse effects that may result from natural hazards.

Assessment Criteria

When assessing discretionary activities the assessment shall include:

1. A risk assessment of the activity including:
 - a. Potential risk and effect on people and neighbouring activities, including sensitive land uses
 - b. Potential risk to waterbodies and ecosystems
 - c. Potential risk to tangata whenua
2. How the design and proposed management minimises potential for adverse effects on the environment
3. Consideration of risks posed by the occurrence of identified natural hazard events in the vicinity
4. Potential for cumulative effects
5. Benefits arising from the activity

Note: a risk assessment should correspond to the scale and significance of the activity and its risks. A quantitative risk assessment may be required for major hazardous facilities where the risk contributors may be significant or complex. A risk assessment should be undertaken by a suitably qualified and experienced professional.