

Proposed Waikato District Plan – Chapter 10 Hazardous Substances

Black text – retained as per s42A report recommendations

Red text in ~~strike through~~ or underlined – proposed amendments by the Oil Companies, Horticulture New Zealand, Federated Farmers, LPG Association.

10. 1 Hazardous Substances

10.1.1 Introduction

Hazardous substances are used in a wide range of activities within the 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. While the use, storage and disposal of hazardous substances allows people to provide for their social and economic wellbeing and their health and safety, such activities also create potential for adverse effects on human health and ~~property~~ the wider environment.

Management of hazardous substances is generally addressed by the Hazardous Substances and New Organisms Act 1996 (HSNO), the Health and Safety at Work Act 2015 (HSW) and relevant regulations. Additional controls are included in the Waikato Regional Policy Statement, Waikato Regional Plan, the Land Transport Act 1998, Building Act 2004 and the Radiation Safety Act 2016.

The district plan avoids duplication of other hazardous substances legislation and regulations. It is not efficient and effective to duplicate existing controls, and Council does not have an express statutory function for management of hazardous substances in s31 RMA. Council retains a role for integrated management.

The provisions of this chapter are, therefore, designed to manage relevant effects of use, storage, or disposal of hazardous substances, where those effects are not appropriately controlled by existing legislation and regulations. Management is therefore confined to manage risk and reverse sensitivity issues from Major Hazard Facilities and the proximity of hazardous substances with explosive or flammable properties to National Grid transmission lines.

~~Hazardous Substances are regulated in part under the Hazardous Substances and New Organisms Act 1996 (HSNO) and the Health and Safety at Work Act 2015. The Resource Management Act has the role of controlling the land use activities including man-made hazards of a chemical nature.~~

~~The provisions of this chapter are designed to minimise the adverse effects of hazardous substances in relation to sensitive land use activities (i.e. residential activities, schools, places of assembly) and sensitive environments (i.e. wetlands, waterways), areas of identified natural hazards and cumulative effects where multiple hazardous facilities are located within proximity to each other. The rules in the plan use an Activity Status Table (AST) to determine which hazardous substances potentially pose significant risk to public safety with respect to the various zones across the Waikato District.~~

Commented [OC1]: Note it is unclear at this stage where in the plan provisions controlling hazardous substances in relation to the national grid will sit (i.e. in the hazardous substances chapter, the infrastructure chapter or both). This statement is intended to acknowledge that controls on hazardous substances apply in relation to the national grid, but it may need to be amended to reflect decisions around plan structure.

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. The sites where such activities take place are defined as hazardous facilities.

Land use activities involving hazardous substances have the potential to result in an increased risk of adverse environmental effects to those members of the public who could be exposed to them, and the surrounding environment.

Risks are influenced by the nature of the hazardous substances, the quantity of the substances, the effects the substance may have, the likelihood of an event occurring and which parts of the environment may be affected. An event may be an accidental release, spill, unintended chemical reaction, fire or explosion.

Risks are influenced by the location of an activity and the surrounding environment. For example, hazardous facilities located in areas subject to natural hazards may be exposed to greater risks of damage or failure resulting in an event involving a hazardous substance.

Facilities located in proximity to land uses that are sensitive to the potential effects of a hazardous substance may also result in a greater risk.

These provisions are a land use planning tool under the Resource Management Act and are designed to apply in addition to requirements of other legislation. Such requirements assist in the management of hazardous substances and they are recognised in the design of the provisions in this chapter.

Objective 10.1.1 - Effects of hazardous substances

Residual Management of hazardous substances is generally addressed by other legislation and regulations. Land use controls in the District Plan are generally not appropriate. In limited circumstances, relevant risks associated with the storage, use, transport or disposal of hazardous substances are managed or minimised to ensure that the effects on people, property and the environment are acceptable, while recognising the benefits of facilities storing, using or disposing of hazardous substances.

Policy 10.1.2 – Major Hazardous facilities

Manage major hazard facilities to ensure they are located and designed so that relevant off-site risk is at acceptable levels for the surrounding environment.

10.1.2 Policy – Location of new Hazardous facilities

(a) New Hazardous facilities must minimise the risk to the environment (including people and property) to acceptable levels by:

- (i) Siting new hazardous facilities in appropriate locations that are separated from incompatible activities, such as sensitive land use and infrastructure, and sensitive environments;
- (ii) Avoid locating near to sensitive land use activities and infrastructure
- (iii) Designing, constructing and operating hazardous facilities in a manner that ensures the adverse effects of the operation or an accidental event involving hazardous substances can be contained within the site; and
- (iv) Disposing hazardous wastes to authorised disposal or treatment facilities that have appropriate management systems in place and avoiding the storage, processing or disposal of hazardous wastes in sensitive environments.

10.1.3 – Policy – Residual Assessment of risks of major hazardous facilities substances
~~Major hazard facilities for the use, storage or disposal of hazardous substances shall identify and assess potential risks and adverse effects (including cumulative risks and potential effects of identified natural hazards) to prevent unacceptable levels of risk to human health, safety, property and the natural environment.~~

10.1.4 Policy – Reverse sensitivity effects
~~(a) Separate Ensure as far as practicable reverse sensitivity effects are avoided between sensitive land use activities and from lawfully-established major hazardous facilities;
 (b) Avoid sensitive land use activities locating within a Risk Management Area and other activities meet risk acceptability criteria appropriate to the applicable land use.
 (c) Separate new hazardous facilities from existing sensitive land use activities; and
 (e) Avoid the storage, processing or disposal of hazardous waste in sensitive environments.~~

Rule 10.3.1 - Hazardous Substances in All Zones

P	The use, storage or disposal of hazardous substances other than within a Major Hazard Facility.
NC	Major hazard facility in the Residential, Country Living, Village, Rangitahi Peninsula Zones
D	Major hazard facility in all other zones or when expansion or change to an existing MHF will result in an increase in the off-site risk profile of the site.
NC	Within a Risk Management Area identified on the Planning maps – any sensitive land use activity and any other activity that does not meet risk acceptability criteria appropriate to the land use.
NC	Any new hazardous facility that involves the storage or use and handling of hazardous substances with explosive or flammable intrinsic properties within 12m of the centre line of a National Grid Transmission Line.

Commented [OC2]: The Oil Companies do not have a particular interest in this rule, but draw council’s attention to the Chch District Plan approach (under Rule 4.1.4.1.5 NC1), which provides a number of exceptions to the activities captured – this ensures low risk activities such as transport of hazardous substances, domestic scale storage and sale of haz subs, gas and oil pipelines, are not required to obtain a consent – see attachment 1 below

METHOD

District Plan ~~The Rules contained in the hazardous substances chapter of the Waikato District Plan recognise that the use, storage and disposal of hazardous substances are generally appropriately regulated under other legislation (including HSNO and HSWA), but that there may be a need to manage risk and reverse sensitivity effects surrounding major hazard facilities. Risk Management Areas will be introduced via Plan Change in response to the risk profile of any consented MHF.~~

Definitions – relating to hazardous substances

Cumulative Risk	Means in the context of hazardous substances, the risk posed by a hazardous facility added to or multiplied, or otherwise accumulated by risk from other hazardous facilities in the vicinity where risks of one facility can influence the risk of the other.
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<p>Hazardous substance</p>	<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> <ol style="list-style-type: none"> a. with 1 or more of the following intrinsic properties: <ol 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 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>	<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.
<p>Major hazard facility</p>	<p><u>Facilities defined in section 4 of the Health and Safety at Work (Major Hazard Facilities) Regulations 2016 as a Major Hazard Facility.</u></p>
<p>Storage</p>	<p>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.</p>
<p>Use</p>	<p>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 or the use and application of agrichemicals and fertilisers.</p>

Risk	Means in respect of any hazardous substance, represents the likelihood of specified consequences of a specific event (for example, an explosion, a fire or a toxic release) on people, ecosystems or the built environment.
Risk assessment	Means the overall process of risk identification, risk analysis and risk evaluation.
Risk Management Area	Means a planning overlay identified on the planning maps around a Major Hazard Facility, the extent of which has been determined by risk assessment and introduced by Plan Change.
Sensitive land use	Means; <ul style="list-style-type: none"> c. an education facility including a childcare facility, waananga and koohanga reo, d. a residential activity, including papakaainga building, rest home, retirement village, visitor travellers' accommodation, student accommodation, home stay, e. health facility or hospital, f. place of assembly g. <u>community facility,</u> h. <u>correctional facility,</u> i. <u>emergency services,</u> j. <u>marae complex.</u>

Appendix 5: Hazardous Substances

Delete Appendix 5 in its entirety

Attachment 1: Christchurch District Plan, Rule 4.1.4.1.5 NC1

Rule 4.1.4.1.5 NC1 of the Christchurch District Plan applies to hazardous substances in close proximity to electricity lines. Note that clause (b) sets out a number of exclusions, which refine the scope of the rule and this type of approach is considered appropriate in the context of the Proposed Waikato District Plan.

4.1.4.1.5 Non-complying activities

a. The activities listed below are non-complying activities.

Activity	
NC1	<ul style="list-style-type: none"> a. Any new storage or use of hazardous substances with explosive or flammable properties within: <ul style="list-style-type: none"> i. 10 metres of the centre line of a 66kV National Grid transmission line or a 66kV electricity distribution line; or ii. 5 metres of the centre line of a 33kV electricity distribution line; or iii. 12 metres of the centre line of a 110kV or 220kV National Grid transmission line. b. For the purpose of (a), the definition of hazardous substances excludes the following activities, facilities and quantities: <ul style="list-style-type: none"> i. storage of substances in or on vehicles being used in transit on public roads; ii. installations where the combined transformer oil capacity of the electricity transformers is less than 1,000 litres; iii. fuel in mobile plant, motor vehicles, boats and small engines; iv. gas and oil pipelines and associated equipment that are part of a utility; v. retail activities selling domestic scale usage of hazardous substances, such as supermarkets, trade suppliers, and pharmacies; vi. the accessory use and storage of hazardous substances in minimal domestic scale quantities; vii. fire-fighting substances, and substances required for emergency response purposes on emergency service vehicles and at emergency service facilities; viii. activities involving substances of Hazardous Substances and New Organisms (HSNO) sub-classes 1.4, 1.5, 1.6, 6.1D, 6.1E, 6.3, 6.4, 9.1D and 9.2D unless other hazard classification applies; ix. the temporary storage, handling and distribution of national or international cargo containers; x. waste treatment and disposal facilities (not within High Flood Hazard Management Areas and Flood Management Areas) and waste in process in the Council's trade waste sewers, municipal liquid waste treatment and disposal facilities (not within High Flood Hazard Management Areas and Flood Management Areas) which may contain hazardous substance residues; xi. vehicles applying agrichemicals and fertilisers for their intended purpose.