

8 Hazardous Facilities and Contaminated Sites

8.1 Introduction

Section 31(1)(b) of the Resource Management Act 1991 imposes a duty on the Kaipara District Council to control any actual and potential effects of the use, development or protection of land. This includes preventing or mitigating any adverse effects of the storage, use, disposal or transportation of hazardous substances (S31(1)(b)(ii)) and preventing or mitigating any adverse effects of the development, subdivision, or use of contaminated land (S31(1)(b)(iia)).

The District Plan provisions aim to prevent or mitigate adverse effects of land use activities that involve the management of hazardous substances. The District Plan also aims to manage activities on contaminated land to prevent adverse effects on human health and the environment.

This District Plan identifies activities that potentially contaminate land. This helps to identify where there is land that may be potentially contaminated within the District. Where sites have previously had potentially contaminating activities occur, the developer will be expected to undertake investigations as to whether the site is contaminated or not (see Appendix 25E). Information about the extent of contamination if any, will be kept on the Council's 'Contaminated Land Register' and will be available through the Land Information Memorandum, and Project Information Memorandum process.

The use, storage, transportation and disposal of potentially hazardous substances have long been an integral part of the normal activities of a community. In some instances accidental discharge to the surrounding environment has resulted in land contamination. These substances, whether singularly or in combination, have the potential to adversely affect the health and safety of the community, the wellbeing and sustainability of the local natural and physical environment.

The use of land associated with hazardous substances is called a 'hazardous facility'. Hazardous facilities are not limited to industrial activities, but include many activities associated with primary food production (e.g. agriculture, horticulture and viticulture), transport activities (including petrol stations and garages, as well as the storage, loading and unloading of vehicles used for the transportation of hazardous substances) and smaller scale commercial land uses.

In areas subject to natural hazards (such as flooding or land instability), hazardous facilities may be exposed to greater risks of damage or failure, resulting in unintended release of substances or events such as fires or explosions.

In addition to the provisions of this District Plan dealing with hazardous substances, contaminated and potentially contaminated land, the following must also be adhered to:

- The relevant Rules and provisions of the Regional Plan and Regional Policy Statement, administered by the Northland Regional Council;
- Regulations for hazardous substances under the Hazardous Substances and New Organisms Act 1996, administered primarily by the Environmental Risk Management Authority and the Department of Labour; and
- The National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health.



8.2 Resource Management Act Requirements and Relevant Legislation

The use of hazardous substances is controlled by several pieces of legislation and agencies at a national and local level.

The Environmental Risk Management Authority is responsible for the implementation of Hazardous Substances and New Organisms Act 1996. The Hazardous Substances and New Organisms Act sets minimum performance requirements for managing the life cycle of hazardous substances, irrespective of location. Other pieces of legislation which broadly relate to the management of hazardous substances include the Building Act 2004, the Fire Service Act 1965, the Health Act 1956, the Radiation Protection Act 1965, and the Health and Safety in Employment Act 1992.

The District Plan seeks to manage activities which use hazardous substances and the use of contaminated land.

Appendix 25D identifies Hazardous Substances managed in this Plan.

Appendix 25E identifies land uses that have the potential to contaminate sites.

The focus of this Chapter (in response to the requirements of the Resource Management Act 1991) is the control of potential adverse environmental effects at a particular site. In particular, these are:

- Effects on the receiving natural environment caused by contamination, toxic effects on ecosystems or ecological communities, and other environmental damage; and
- Effects on human health, including immediate and long term risk to people and communities. For hazardous substances, the effects on the physical and natural resources caused by fire and explosion must also be considered.

In particular, the Kaipara District Council promotes the sustainable management of natural and physical resources in this Chapter by controlling the use of land to:

- 1) Manage the effects of the storage, use, disposal and transport of hazardous substances; and
- 2) Require appropriate use of contaminated land.

The Resource Management (National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health) Regulations 2011 sets out rules for the following activities which are proposed to occur on land where an activity or industry listed in the Ministry for the Environment's Hazardous Activities and Industries List (HAIL) is being or has been undertaken, or where it is more likely than not that a HAIL activity is being or has been undertaken:

- Removing or replacing a fuel storage system;
- Sampling soil;
- Disturbing soil;
- Subdividing land; or
- Changing the use of land.

8.3 How to Use This Chapter of the District Plan

This Chapter contains Issues, Objectives and Policies relating specifically to recognising and managing Hazardous Facilities and Contaminated Sites. While this Chapter contains Methods, it does not contain 'Rules'. The outcomes sought for the use, development and protection of land with respect to hazardous substances and contaminated sites will be achieved through Land Use and Subdivision Rules and Performance Standards in the Zone Chapters.

As long as the standards for hazardous substances and use of contaminated sites are met, landowners have flexibility on what they do on their property and do not need to consider this Chapter. However, if a proposed development or new land use will exceed the standards relating to hazardous substances or use or development of a contaminated site, you will need to apply to do the work (lodge a Resource Consent). If you are applying for such Consent, you should give consideration to this Chapter, particularly on how your development contributes to achieving the Objectives and Policies.

Issues, Objectives and Policies within each Chapter of the Plan are presented in no particular order of importance.

Before you use this Chapter of the Plan, check:

- That the property is registered by the Council as a Contaminated Site (as identified on your Land Information Memorandum or Project Information Memorandum) or is considered potentially contaminated (see Appendix 25E).
- That the proposed use or development does not meet the performance standards relating to hazardous substances or use or development of a contaminated site.
- That the Consent Application has considered the matters for assessment with respect to the performance standard non-compliance.

8.4 Significant Issues for Hazardous Facilities and Contaminated Sites

8.4.1 People's health, safety and property can be adversely affected by hazardous substances.

Human health, safety and property can be adversely affected by, and in extreme cases death can result from, the inadvertent or deliberate release or reaction of hazardous substances during their use, storage, transport or disposal.

8.4.2 The environment can be adversely affected by hazardous substances.

The health, and in some cases the continued existence of living elements of eco-systems can be adversely affected by the inadvertent or deliberate release or reaction of hazardous substances during their use, storage, transport or disposal. In addition, land, water and air can be contaminated by the inadvertent or deliberate release or reaction of hazardous substances during their use, storage, transportation or disposal.

Figure 1-2 in Chapter 1 provides a summary of how to use this District Plan

The 'Rules' to implement this Chapter are in the Zone Chapters (Part B)

The objectives and policies seek to address these issues.

8.4.3 The appropriate location, storage, transportation and management of hazardous substances is necessary to minimise the potential to adversely affect human health, property and the environment.

Transportation, storage and use of hazardous substances need to be undertaken in a manner which avoids putting the environment, human health and property at risk. This includes transporting hazardous substances while minimising the potential risks of leaks and spills and locating and securing hazardous substances in a manner that minimises risk of leak, spill or reaction induced by a natural hazard.

8.4.4 Use or redevelopment of contaminated sites can present a hazard to natural environments and human health and safety, and may increase the adverse effects of the contamination.

Many historical land use activities have led to the contamination of land. Potential adverse effects include health effects for natural ecosystems and human health effects. These typically arise when contaminated sites are redeveloped, and site construction workers, residents or occupiers are exposed to contaminants or when contaminants are released to sensitive receiving environments. Human health risks also need to be considered when contaminated matter is transported away to another site (e.g. landfill). The movement of contaminants off-site can be from the contamination of surface water courses resulting from direct run-off from sites, or point source stormwater discharges and groundwater contamination in areas with permeable soils or by wind and leaching.

The objectives and policies seek to address these issues.

8.5 Hazardous Facilities and Contaminated Sites Objectives

8.5.1 To avoid, remedy or mitigate the adverse effects of the use, storage, transportation and disposal of hazardous substances on human health and safety, and on physical resources and property.

Issues 8.4.1, 8.4.2 and 8.4.3

8.5.2 To avoid, remedy or mitigate the adverse effects of the use, storage, transportation and disposal of hazardous substances on land, air, water and natural ecosystems.

Issues 8.4.2 and 8.4.3

8.5.3 To administer the use, management and development of contaminated sites in a way that controls adverse effects on the environment, human health and safety, pursuant to the National Environmental Standard for Assessing and Managing Contaminants to Soil to Protect Human Health.

Issue 8.4.4

8.6 Hazardous Facilities and Contaminated Sites Policies

8.6.1 By ensuring that activities involving the use or storage of hazardous substances are designed, constructed and managed to avoid the risk of unintended fire and explosion, protect human and environmental health and adverse effects on the environment.

Objective 8.5.1

The use of hazardous substances may provide benefits to people and communities by meeting needs for products and services. However, any facilities or activities involving hazardous substances also represent a risk to people and communities. In some cases, this risk may be of particular concern because of the proximity of sensitive "people intensive" activities such as schools, recreational venues or residential areas. In such circumstances, the ability to control the location and design of hazardous facilities, to require the adoption of emergency procedures and to require signage to indicate the nature and location of hazardous substances present on site are necessary to ensure that potential effects of low probability but high potential impact are avoided (e.g. explosive events in the vicinity of a school). Assessment of site suitability may include consideration of the risk to land uses along the route that vehicles delivering hazardous substances must take to reach or depart from the site.

8.6.2 By ensuring that the storage and transportation of hazardous substances is undertaken in a manner that reduces the risk of accidental leaks and spills.

Objectives 8.5.1 and 8.5.2

The storage and transportation of hazardous substances needs to be undertaken in a way that avoids putting the environment at risk (e.g. from accidental spills or leaks).

8.6.3 By requiring that hazardous substances are appropriately disposed of at specialist facilities to avoid any adverse effects on the environment.

Objectives 8.5.1 and 8.5.2

To avoid the further contamination of land, water or air, hazardous substances or waste must be disposed of appropriately, including where appropriate, consideration to disposal outside the District.

8.6.4 The appropriate identification and assessment of both activity specific and possible cumulative risks with other activities involving hazardous substances.

Objectives 8.5.1 and 8.5.2

Lack of knowledge of effects of specific and cumulative activities in relation to hazardous substances has been identified in the industry as a major issue.

8.6.5 By requiring that contaminated sites are managed in such a way to either avoid subdivision, use or development of sites that present a risk to health, safety or the environment, or ensure that the potential adverse effects of the contamination are remedied or mitigated to acceptable environmental levels (appropriate to the use or development of the site).

Objective 8.5.3

The National Environmental Standard for Assessing and Managing Contaminants to Soil to Protect Human Health sets out a process for identifying and assessing contaminants in soils that may be a risk to human health prior to development of a site. It provides a national set of rules and identifies activities that

require consent. The level of contamination of a site will influence which activities would be appropriate and the extent of remedial or mitigation measures that are required to adequately decrease the level of risk to human health.

8.7 Methods

8.7.1 District Plan Methods

8.7.1.1 Assess the potential effects of activities involving hazardous substances and ensure that the level of potential risk is acceptable for a given Zone.

8.7.1.2 Determine the activity status of hazardous facilities with a method linked to quantities and degree of hazard of substances involved.

8.7.1.3 Include Rules which focus on controlling the location and management of hazardous substances and control the design of hazardous facilities.

8.7.1.4 Identify land where potentially contaminating activities have occurred in the past and require appropriate levels of remediation occur to enable the continued use of the land.

8.7.2 Other Methods

8.7.2.1 Coordinate and consult with the Northland Regional Council on managing hazardous substances and controlling effects of their use, transport, storage and disposal. This will be achieved through each agency implementing its statutory requirements and through inter-agency communication and coordination.

8.7.2.2 Further develop the Contaminated Land Register.

8.7.2.3 Ensure the transport of hazardous substances is controlled by specific land transport legislation and regulations.

8.7.2.4 Promotion of good practices by hazardous facilities operators, including best management practices and adoption of environmental or quality management systems.

8.7.2.5 Assist the Northland Hazardous Substances Technical Liaison Committee with its emergency planning and contingency work.

8.7.2.6 Incorporate provisions relating to hazardous substance emergencies into the District Civil Defence Plan.

8.7.2.7 Monitoring of compliance with Rules and Resource Consent Conditions, in conjunction with monitoring of compliance with other Statutes, Codes of Practice, New Zealand Standards and Guidelines for hazardous substances.

8.8 Outcomes

8.8.1 Improved community and industry awareness of risks posed by activities using, storing, transporting or disposing of hazardous substances.

Issues 8.4.1 and 8.4.3

8.8.2 Adoption of appropriate site management and operational practices for hazardous substances.

Issue 8.4.2

8.8.3 The avoidance of harm to people's safety, property and the environment from the use, storage, transport and disposal of hazardous substances.

Issues 8.4.2 and 8.4.3

8.8.4 Contaminated sites within the District identified and assessed and any subdivision, use or development of these sites does not adversely impact on the health and safety of people and communities.

Issue 8.4.4

8.9 Hazardous Facilities and Contaminated Sites Rules

Activities affected by this Chapter of the District Plan must comply with the relevant performance standards applying to the Zone in which the activity is located (refer to Part E – Maps and Part B - Land Use), and with any other relevant provisions in Part C – Sites, Features and Units.

Note 1: Appendix 25D – Hazardous Facilities in Part D of the Plan contains guidance on the permitted quantities of Hazardous Substances by Zone and will assist to determine an activity meets the Permitted Activity performance standards in the relevant Part B Zone Chapter.

Note 2: Appendix 25E – Potentially Contaminating Activities, contained in Part D of the Plan contains guidance on the types of activities that have the potential to result in the contamination of a site.