

## Appendix 1 - Recommended Amendments

Where I recommend changes in response to submissions, these are shown as follows:

Text recommended to be added to the Proposed Plan is underlined.

Text recommended to be deleted from the Proposed Plan is ~~struck through~~.

### Contaminated Land

#### Introduction

Contaminated land is land that has significant adverse effects on the environment or land that is reasonably likely to have significant adverse effects on the environment. The subdivision, development, or change of use of contaminated land can expose people to increased levels of contamination from hazardous substances that were previously used or stored on-site. The Resource Management (National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health) Regulations 2011 (NESCS) provides a rule framework for managing certain activities on land affected or potentially affected by soil contaminants. The Council is responsible for administering the NESCS.

This chapter provides objective and policy direction for the assessment of any resource consent application made under the NESCS.

Responsibility for the management of environmental effects arising from contaminated land sits with the Canterbury Regional Council, e.g. leaching of contaminants to waterbodies or groundwater from land development or disturbance activities.

#### Objectives

##### CL-O1 Management of contaminated land

~~Contaminated land is made safe for human health and its intended use before any~~ The change of use, ~~land~~ ~~soil~~<sup>1</sup> disturbance, development or subdivision of contaminated land does not result in a risk to human health.<sup>2</sup>

#### Policies

##### CL-P1 Investigation of contaminated and potentially contaminated land

Require the investigation of contaminated land or potentially contaminated land prior to any change of use, ~~land~~ ~~soil~~<sup>3</sup> disturbance, development or subdivision of land that could result in an increase in the risk to human health resulting from any contamination of the land.

<sup>1</sup> BP Oil, et al [196.43]

<sup>2</sup> Transpower [159.58]

<sup>3</sup> BP Oil, et al [196.43]

**CL-P2 Subdivision, use and development of contaminated land**

Any proposal to subdivide, use or develop contaminated land must follow a best practice approach to:

1. manage contaminated soil to protect human health; and
2. ensure the land is suitable for its intended use.

**CL-P3 Remediation and management works**

Ensure that ~~the risks to human health from~~ any remediation of, or any management works undertaken on, contaminated land, do not increase risks to human health from the contamination that is present,<sup>4</sup> and, where possible encourage the reduction of those risks.

**Rules**

**Note:** *There are no rules contained in this chapter. Reference should instead be made to the rules contained in the Resource Management (National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health) Regulations 2011.*

<sup>4</sup> Road Metals [169.14] and Fulton Hogan [170.15]

## Hazardous substances

### Introduction

Hazardous substances include a variety of toxic substances such as chemicals, medical waste, petroleum products and gases. Hazardous substances are used throughout the District for many purposes, with their use, storage, and disposal being an integral and essential part of many commercial, industrial, rural and domestic activities. However, if not appropriately managed, their storage and use are potential threats to people and the environment.

The Hazardous Substances and New Organisms Act 1996 (HSNO) aims to protect the health and safety of people from the adverse effects of hazardous substances. The Health and Safety at Work Act 2015 (HSW) aims to protect people against harm to their health, safety and welfare caused by risks arising from work. These Acts provide the general framework for controlling hazardous substances during their life cycle. However, they do not take into account the sensitivity of the environment in which hazardous substances are located, or other relevant resource management issues.

Accordingly, the District Plan addresses the following resource management matters concerning hazardous substances:

1. potential adverse effects on sensitive activities and sensitive locations ~~environments~~;<sup>5</sup>
2. reverse sensitivity effects caused by sensitive activities locating too close to hazardous facilities;
3. the risks to hazardous facilities from natural hazards and consequential risks to the environment;
4. cumulative effects of major hazard facilities locating too close each other.

The adverse effects associated with these resource management issues generally have a low probability of occurring but a high potential impact if they do occur. As such and as the need to comply with the HSNO and HSW Acts significantly reduces most risks associated with hazardous substances, this chapter focuses on higher risk facilities, being hazardous facilities and major hazard facilities. Major Hazard Facilities are identified through the Health and Safety at Work (Major Hazard Facilities) Regulations 2016.

Proposals for new Major Hazard Facilities (and additions to Major Hazard Facilities), will require a Quantitative Risk Assessment to be provided which is prepared by a suitably qualified and experienced practitioner ~~person~~.<sup>6</sup> This assessment will help quantify the extent and nature of the risk. ~~Unacceptable risks to human health are defined as an individual human fatality not greater than  $1 \times 10^{-6}$  per year (one in a million). Where a Quantitative Risk Assessment has been prepared, sensitive activities are required to located outside of the  $(1 \times 10^{-6}$  per year) risk area, or if no such assessment exists, at least 250m away from the Major Hazard Facilities.~~<sup>7</sup>

<sup>5</sup> BP Oil et al [196.64], PrimePort [175.34] and TDH [186.19]

<sup>6</sup> RMA Clause 16(2)

<sup>7</sup> Timaru Oil Services [155.1] and Fonterra [165.53]

**Objectives****HS-O1 Hazardous substances, use, storage and disposal**

The risks associated with the use, storage, and disposal and transportation of hazardous substances are managed and, in relation to Major Hazardous Facilities, occurs where unacceptable risks to the environment and human health are avoided.<sup>8</sup>

**HS-O2 Sensitive activities**

New or expanded sensitive activities are designed and located to minimise reverse reverse sensitivity effects on major hazard facilities and to avoid unacceptable risks to the sensitive activity.<sup>9</sup>

**Policies****HS-P1 New Major Hazard Facilities and additions to existing Major Hazard Facilities**

Avoid unacceptable risks of new Major Hazard Facilities and additions to Major Hazard Facilities by:

1. using Quantitative Risk Assessments to ensure there is no unacceptable risk the risk of an individual human fatality is not greater than  $1 \times 10^{-6}$  per year (one in a million), including cumulative effects;<sup>10</sup> and
2. ensuring Major Hazard Facilities do not cause unacceptable cumulative effects by locating too close to each other; and
3. locating new<sup>11</sup> Major Hazard Facilities outside of sensitive locations environments<sup>12</sup>, except for Natural Hazard Areas (not defined as a High Hazard Area); and
4. ensuring, in Natural Hazard Areas (not defined as a High Hazard Area), suitable measures are to undertaken to:
  - a. avoid or minimise adverse effects from natural hazards on ~~hazardous facilities and~~<sup>13</sup> Major Hazard Facilities; and
  - b. minimise the risk of hazardous substances entering the environment in the event of a natural hazard event.

**HS-P2 Repair and maintenance of existing Major Hazard Facilities**

Enable the repair and maintenance of existing Major Hazard Facilities.

**HS-P3 Sensitive activities in proximity to Major Hazard Facilities**

Require sensitive activities to be sufficiently separated from Major Hazard Facilities to minimise reverse sensitivity effects on the Major Hazard Facility and to avoid unacceptable risks to the sensitive activity.

<sup>8</sup> BP Oil, et al [196.58]

<sup>9</sup> BP Oil, et al [196.59]

<sup>10</sup> Timaru Oil Services [155.1]

<sup>11</sup> BP Oil, et al [196.60]

<sup>12</sup> BP Oil, et al [196.64], PrimePort [175.32] and TDH [186.17]

<sup>13</sup> Clause RMA 16(2) as this policy is not about hazardous facilities

**HS-P4 Hazardous facilities (other than Major Hazard Facilities)**

1. Enable hazardous facilities (other than Major Hazard Facilities), provided that:
  - a. The facility is located outside of a sensitive location environment (except for a Flood Assessment Area);<sup>14</sup>
  - b. If the facility is located within a Flood Assessment Area, where the flood hazard can be mitigated;<sup>15</sup> and
2. Only allow hazardous facilities (other than Major Hazard Facilities) in sensitive locations environments where the risks to the sensitive environments can be avoided in the first instance, or where avoidance is not possible, minimised.<sup>16</sup>

**Rules**

**Note:** Activities not listed in the rules of this chapter are classified as permitted under this chapter. For certain activities, consent may be required by rules in more than one chapter in the Plan. Unless expressly stated otherwise by a rule, consent is required under each of those rules. The steps plan users should take to determine what rules apply to any activity, and the status of that activity, are provided in Part 1, HPW — How the Plan Works - General Approach.

<b>HS-R1</b>	<b>Use and/or storage of hazardous substances in a hazardous facility (excluding Major Hazard Facilities)</b>	
<b>All zones</b>	<p><b>Activity status: Permitted</b></p> <p><b>Where:</b></p> <p><b>PER-1</b> The hazardous facility is located outside a <u>sensitive locations environment</u> (other than a Flood Assessment Area Overlay);<sup>17</sup> and</p> <p><b>PER-2</b> The activity is 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 Risk Certificate issued in accordance with NH-S1.</p>	<p><b>Activity status when compliance not achieved: Restricted Discretionary</b></p> <p><b>Discretion is restricted to:</b></p> <ol style="list-style-type: none"> <li>1. The 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</li> <li>2. The extent to which hazardous substances can be safely contained to minimise effects from natural hazards.</li> <li>3. Potential effects on land use activities in the surrounding area; and</li> <li>4. The potential effects on natural ecosystems, sensitive <u>locations environments</u><sup>18</sup> and life-supporting capacity of land and water from escape or spillage; and</li> </ol>

<sup>14</sup> BP Oil et al [196.64], PrimePort [175.34] and TDH [186.19]

<sup>15</sup> RMA Clause 16(2)

<sup>16</sup> BP Oil et al [196.64], PrimePort [175.34] and TDH [186.19]

<sup>17</sup> BP Oil et al [196.64], PrimePort [175.34] and TDH [186.19]

<sup>18</sup> BP Oil et al [196.64], PrimePort [175.34] and TDH [186.19]

		<p>5. Potential risk and effects on SASM <u>within the sensitive locations</u>;<sup>19</sup> and</p> <p>6. Potential risk to human health and safety; and</p> <p>7. <del>Potential effects on natural character and the amenity of sensitive areas and sensitive uses; and</del><sup>20</sup></p> <p>8. Potential for cumulative effects of other activities where hazardous substances are stored, used or disposed of.</p>
<b>HS-R2</b>	<b>Maintenance and, repair, upgrades, additions and alterations of Major Hazard Facilities</b>	
<b>All Zones</b>	<p><b>Activity status: Permitted</b></p> <p><u>Where:</u></p> <p><u>PER-1:</u></p> <p><u>The activity does not increase the risk profile of the Major Hazard Facility as stated in a Quantitative Risk Assessment prepared by a suitably qualified and experienced practitioner; and</u></p> <p><u>PER-2</u></p> <p><u>The volume of total hazardous substances manufactured, used, stored, or disposed of at the Major Hazard Facility does not increase by more than 10 %.</u><sup>21</sup></p>	<p><b>Activity status when compliance not achieved: <del>Not applicable</del> Discretionary</b></p>
<b>HS-R3</b>	<b>Sensitive activity, including subdivision to create a new allotment to accommodate future sensitive activity, in proximity to a Major Hazard Facility</b>	
<b>All Zones</b>	<p><b>Activity status: Permitted</b></p> <p><b>Where</b></p> <p><b>PER-1</b></p> <p>Where a Quantitative Risk Assessment has been prepared by a suitably qualified <u>and</u></p>	<p><b>Activity status where compliance not achieved: Non-Complying</b></p>

<sup>19</sup> BP Oil et al [196.64], PrimePort [175.34] and TDH [186.19]

<sup>20</sup> BP Oil et al [196.64], PrimePort [175.34] and TDH [186.19]

<sup>21</sup> Silver Fern Farms [172.43], Alliance Group [173.40], Southern Proteins [140.11] and BP Oil, et al [196.66]

	<p><u>experienced practitioner person</u><sup>22</sup> for a Major Hazard Facility and provided to Timaru District Council and the sensitive activity is located outside any area of unacceptable risk; or</p> <p><b>PER-2</b> Where a Quantitative Risk Assessment does not exist for a Major Hazard Facility, the sensitive activity is not located within 250m of an existing Major Hazard Facility.</p>	
<b>HS-R4</b>	<b>New Major Hazard Facilities and additions to Major Hazard Facilities</b>	
<b>All Zones</b>	<b>Activity status: Discretionary</b>	<b>Activity status when compliance not achieved: Not applicable</b>

**Amend the definition of definition of “Hazardous Facilities” as follows:**

means a facility or activity that involves the use, storage or disposal of any hazardous substance, but excludes:

1. the incidental use and storage of hazardous substances in minimal domestic scale quantities;
2. retail outlets for hazardous substances intended for domestic usage (e.g. supermarkets, hardware stores and pharmacies);
3. the incidental storage and use of agrichemicals, fertilisers and fuel for land based primary production activities and the incidental storage of agrichemicals, fertilisers and fuel for land based primary production activities which are not located in a Drinking Water Protection Overlay<sup>23</sup>;
4. pipelines used for the transfer of hazardous substances such gas, oil, trade waste and sewage;
5. fuel in motor vehicles, boats, airplanes and small engines;
6. the use, transportation, or storage of any hazardous substance for any temporary military training activity;
7. the transportation of hazardous substances (e.g. in trucks or trains); or
8. mixing and application of hazardous substances solely for the purpose of controlling plant and animal pests on site.

<sup>22</sup> RMA Clause 16(2)

<sup>23</sup> Timaru District Council [42.5]

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9. emergency services facilities and emergency management activities.<sup>24</sup>

**Amend the definition of “Unacceptable Risk [in relation to hazardous substances]” as follows:**

In relation to major hazard facilities, means exposure of sensitive activities (including residential dwelling) to an individual fatality risk level exceeding  $1 \times 10^{-6}$  per year (one in a million).<sup>26</sup>

**Add a new definition for “Sensitive Locations” as follows:**<sup>27</sup>

Sensitive Locations means:

1. Areas within the following Overlays identified on the Planning map, but excluding the PORTZ:

- a. An Earthquake Fault Awareness Overlay; and
- b. A High Hazard Area Overlay; and
- c. The Sea Water Inundation Overlay; and
- d. The Coastal Erosion Overlay; and
- e. A Drinking Water Protection Area; and
- f. The area within 250m of an MHF; and

2. the below areas:

- a. The area within 100m from the edge of a Riparian Margin or wetland area; and
- b. High Hazard Areas identified in a Flood Certificate issued under NH-S1.

**Amend the Planning Maps to delete all ‘SHF’ and show only the following MHF:**<sup>28</sup>

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<sup>24</sup> FENZ [131.2]

<sup>25</sup> Bruce Speirs [66.9]

<sup>26</sup> Bruce Speirs [66.9]

<sup>27</sup> PrimePort [175.32] and TDH [186.17]

<sup>28</sup> TDC [42.74]



