PART 11 - HAZARDOUS FACILITIES AND CONTAMINATED SITES

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Plan modification annotations - key

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of this section

HAZARDOUS FACILITIES AND CONTAMINATED SITES

11.1 CONTENT AND STRUCTURE

The Council has a duty through the Plan to control the actual or potential effects of activities on land. This Part recognises that the storage or use of hazardous substances may have adverse effects on the environment, if the facilities are not properly managed and controlled.

The Plan recognises that the Council is charged with a responsibility under Section 31 of the Act to control any actual or potential effects of the use, development or protection of land, including the implementation of rules, for the prevention and mitigation of any adverse effects of the storage, use, disposal or transportation of hazardous substances. A hazardous substance is defined in section 16 of this Plan and includes any substance with an intrinsic property for: explosiveness, flammability, corrosiveness, toxicity, ecotoxicity, or a capacity to oxidise, or one which on contact with air or water generates a substance with these properties.

In order to manage the effects of hazardous substances, the rules of the Plan must focus on those facilities and activities which use, store or dispose of hazardous substances, as defined above, rather than on the substances themselves. The provisions of the Plan, therefore, are used to control the location, development and performance of hazardous facilities. These are defined as any activities involving hazardous substances; sites where hazardous substances are stored or handled or which might be contaminated by hazardous substances; and any installations containing hazardous substances, including vehicles parked on site laden with hazardous substances. Provisions applying to the control of hazardous facilities are included in this Part.

Hazardous activities, on the other hand, are those activities which do not use, store or dispose of hazardous substances but which still pose a risk to the environment or the community (refer to 3.2.6 and Part 13).

11.2 STATUTORY CONTEXT

Under the provisions of the Act the Auckland Regional Council can state the responsibilities of the various territorial authorities for the management of hazardous substances. The Regional Policy Statement states that the development of objectives, policies, and rules relating to the control of the use of land for the prevention and mitigation of any adverse effects of the storage, use, disposal, or transportation of hazardous substances, not in the Coastal Marine Area, shall be the responsibility of the territorial local authorities in the region.

This Part deals principally with the location of facilities and manages the risk from such land uses through the Hazardous Facilities Screening Procedure (HFSP). The principal use of the HFSP is to screen an application that involves hazardous substances to determine its consent status.

The Plan recognises that other elements of managing the risks from hazardous substances are also controlled through other legislation such as the Hazardous Substances and New Organisms Act 1996 and its transitional provisions. It is also acknowledged that national legislation and regional plans may occasion the need to alter or modify the Plan.

11.3 RESOURCE MANAGEMENT ISSUES

The storage, use, disposal and transportation of hazardous substances is a normal part of many industrial activities. Adjacent to the Central Area, the Waitemata Harbour is a valued environmental resource and is particularly sensitive to contamination from hazardous substances. The Central Area contains the major shipping port for the Auckland region and bulk quantities of hazardous substances are stored near it prior to being distributed via the roading network in the Central Area to provide the feedstock materials for much of the chemical and manufacturing industry throughout the region.

Hazardous substances can enter the environment indirectly through sewerage and stormwater systems and by inappropriate disposal of wastes, more directly through spills, leakages and accidents.

The safety and health of people in the community are at risk if adequate controls are not placed on hazardous facilities.

It is considered, therefore, that the main issue to be addressed in the Plan is the development of controls which reduce or avoid risk to the community and the environment. Community risks concern health, personal and public safety, and property protection. Environmental risks concern environmental degradation, habitat destruction, and water and air pollution. The strategy for managing hazardous facilities must reconcile and attend to these two interests.

Within the Central Area there are a number of sites which have become contaminated to varying degrees through the

discharge or spillage of hazardous substances. Such sites present a risk not only to the natural environment in terms of contamination of the land, and waterbodies, but also to the health and safety of occupiers on the site and on adjoining properties. The Plan must adopt measures which minimise the risk of future contamination of land and which remedy or mitigate the effects of existing contamination on redevelopment of any contaminated site. Provisions to cover sites where contamination may threaten the foundations of buildings are set out in the Building Act 1991.

11.4 RESOURCE MANAGEMENT OBJECTIVES AND POLICIES

11.4.1 OBJECTIVE

To minimise the risk of future contamination and mitigate adverse environmental effects and risks presented by facilities and activities involving the use and/or storage of hazardous substances.

Policies

a) By identifying, through a risk screening process, those facilities which pose a risk to the natural environment or to public health and safety.

b) By managing such facilities to avoid, remedy, or mitigate adverse effects and unacceptable risks to the environment.

c) By controlling such facilities to ensure that the cumulative effect of their operations do not pose unacceptable risks to the environment or the community.

d) By requiring, where appropriate, the preparation and operation of site management and emergency plans by operators.

e) By promoting a cleaner production ethic appropriate to the environment of the district.

11.4.2 OBJECTIVE

To protect the community from unacceptable risks from hazardous facilities.

Policy

a) By controlling such facilities to ensure that they do not give rise to levels of risk that are incompatible with the levels of risk associated with the surrounding land use activities.

11.4.3 OBJECTIVE

To minimise the adverse effects of site contamination.

Policies

a) By applying measures which seek to minimise and control the adverse effects arising from contaminated land.

b) By requiring, where appropriate, the remediation of contaminated land as a prerequisite to its redevelopment.

c) By ensuring, where appropriate, that any residual land contamination levels are appropriate for any proposed redevelopment.

11.4.4 OBJECTIVE

To manage and control existing hazardous facilities in a way that enables them to continue to be used for the loading, unloading, storage, and transportation of hazardous substances in the Central Area as appropriate.

Policies

a) By managing and controlling existing hazardous facilities and activities in a way that ensures that appropriate existing facilities and activities can continue to operate and function in the Central Area so as to serve industry and commerce.

b) By requiring existing hazardous facilities that substantially expand or alter their operation to undergo a risk screening process.

11.5 RESOURCE MANAGEMENT STRATEGY

The Council has developed an approach for the management of hazardous facilities which focuses on screening the potential effects of all hazards including those which affect the environment. Applications will pass through the Hazardous Facilities Screening Procedure (HFSP) to determine their consent status and the degree of scrutiny that applications should be subject to. This screening assessment will be applied to all new hazardous facilities. Those existing facilities which substantially expand or alter their operation will be assessed against the

hazards of each hazardous substance, its physical form, and the manner in which it is used or stored.

The screening assessment of hazardous facilities focuses on the potential effects in three groups, namely effects caused by fire and/or explosion, effects on human health, and environmental effects. Possible adverse effects of hazardous substances can be predicted by the known hazard of the substance, and the anticipated consequences of its release to the environment. Adverse effects include:

- contamination of water, soil and air
- short and long term damage to ecosystems
- accumulation of persistent substances in the bodies of humans and other animals, resulting in chronic and/or long term damage to their health
- acute damage to human health through exposure to substances affecting skin, mucous membranes, respiratory and digestive systems
- damage to the environment, human health and property through fire and explosion events.

It is important to distinguish between the hazard of a substance and the risk it poses. The hazard is principally defined by the intrinsic properties of the substance, such as flammability or toxicity. In contrast, the risk presented by the substance is defined by the probability of its release, combined with the consequences caused by that release.

While the HFSP will apply to all applications with the exemptions noted, large developments that exhibit significant risk beyond their site boundary may be required to undergo further risk assessment. Such an assessment shall take account of both the probability and effects of potential hazardous substances accidents, and the proposed measures to mitigate and manage risks. The granting of a resource consent will then be considered on the basis that the off-site risks presented by a hazardous facility can be adequately managed.

11.5.1 HAZARDOUS FACILITIES SCREENING PROCEDURE

The Hazardous Facilities Screening Procedure (HFSP) is set out in Appendix 6. The Plan requires all new facilities which use, store or dispose of, hazardous substances, to be subject to the HFSP. This procedure is used to identify those activities using hazardous substances which require additional assessment work and thus a resource consent, or those which may locate within a particular area as a permitted activity. To ascertain this, the Plan identifies three broad groups of effects to be managed: effects caused by fire and/or explosion, effects on human health, and effects on the environment. The levels of risk for these groups are used to determine what permitted activities are acceptable in a particular activity precinct and the levels where a controlled or discretionary activity resource consent is necessary prior to operation. Consideration of any application will focus on risk mitigation, emergency planning and performance assurance procedures. Management and operational practices will also be assessed in order to identify where risks may be avoided or reduced and where cleaner production can be achieved.

11.5.2 EXISTING FACILITIES

Existing hazardous facilities will not be subject to the HFSP unless they substantially expand or alter their operations. However the Council will monitor these facilities through other regulatory powers. Where it is considered that an existing facility is operating at a level of risk which has or may have a significant adverse effect on the environment, the Council may use its enforcement powers under the Act to ensure that no adverse effect on the environment occurs or continues to occur.

Where existing hazardous facilities expand or alter their operations, Council may include assessing the existing quantities of hazardous substances on site if the substantial expansion or alteration affects the current level of risk.

11.5.3 CONTAMINATED SITES

Not all the contaminated sites in the Central Area have been identified. However any activity which seeks to remediate or redevelop a particular site will be assessed as a restricted controlled or restricted discretionary activity respectively, so as to ensure that proper and safe measures are being undertaken and that remediation practices will not lead to further degradation of the site or surrounding environment. Under section 35 of the Act, the Council has a duty to gather information, to carry out research and to keep records in order to carry out its functions. Both the Building Act 1991 and the Local Government Official Information and Meetings Act 1987 require the Council to gather and provide information on contamination through the LIM and PIM systems. As a guideline for identifying potentially contaminated sites, the Council uses the Hazardous Activities and Industries List (HAIL) attached in Annex11. This list was developed by the Ministry for the Environment and is intended to capture the majority of situations in New Zealand where there are hazardous substances that could cause, and in many cases have caused, land contamination. Contaminated and potentially contaminated sites are identified on the Council's GIS database and disseminated to the public via the LIM and PIM information system. In addition, the ARC identifies and classifies on a public register all land in the Auckland region that is confirmed by the ARC using the National guidelines for Classification of Contaminated Sites,

MFE:2001. It is recognised that labelling of sites has to be undertaken with care in order not to unnecessarily blight land and the Council will work with the ARC and MFE to develop a regional or national approach to contaminated site information management.

Prior to subdivision or development occurring on sites identified as contaminated or potentially contaminated, owners may be required to take steps to make the sites safe for the proposed end land use. Generally compliance with the *Ministry for the Environment Guidelines Nos 1-5 Contaminated Land Management* will be required. Where contamination of the ground or ground water within a site is detected or where there is potential for contaminants to enter ground water or surface water (whether as a result of the proposed remediation works or by natural or other processes), a discharge consent from the Auckland Regional Council may be required. In any event, for sites which exhibit contamination problems, the Council may use its enforcement powers under the Act to ensure that no adverse effect on the environment occurs.

11.5.4 MONITORING

An important component of the hazardous facilities strategy of the Plan is an increased emphasis on the monitoring of such facilities. This will determine whether the Plan's provisions are effective in reducing the risks posed to the environment and the community. It should also signal where provisions need to be improved.

11.5.5 ANTICIPATED ENVIRONMENTAL RESULTS

The Plan's provisions should have the greatest benefit for environmental quality. The controls on hazardous facilities are expected to result, over time, in a reduction of the number of accidents. The requirement for new facilities to undergo the HFSP is expected to raise the level of consciousness and understanding of hazardous substance users and of the risks their operations generate. This will lead to the adoption of better operational practices. These measures will also result in fewer new sites being contaminated and in progressive remediation of existing sites.

11.6 PLAN METHODS

The following provisions set out the rules and other measures designed to give effect to the objectives and policies for hazardous facilities and contaminated sites in the Central Area Section of the Plan.

The rules for hazardous facilities and contaminated sites apply to any activity or development in the Central Area and must be complied with for the establishment of a hazardous facility or where a contaminated site is to be remediated or redeveloped.

11.6.1 DEFINITIONS

Part 16 contains the definitions and descriptions of the terms employed in this Part.

11.6.2 ACTIVITIES

The HFSP provides for the calculation of the "*Effects ratios"* for any particular proposal for each of the effect groups. These ratios are used to determine if a proposal is a permitted activity or if it requires a resource consent. Hazardous facilities are permitted in a particular location where:

a) the development controls for hazardous facilities can effectively control any potential effects, and

b) the potential level of risk is limited, and

c) the health and safety of the surrounding community or the quality of the environment of the area will not be adversely affected. In determining this, the objectives of the particular area, its characteristics and its location are taken into account.

Exemptions from the HFSP are set out in 11.7.8.

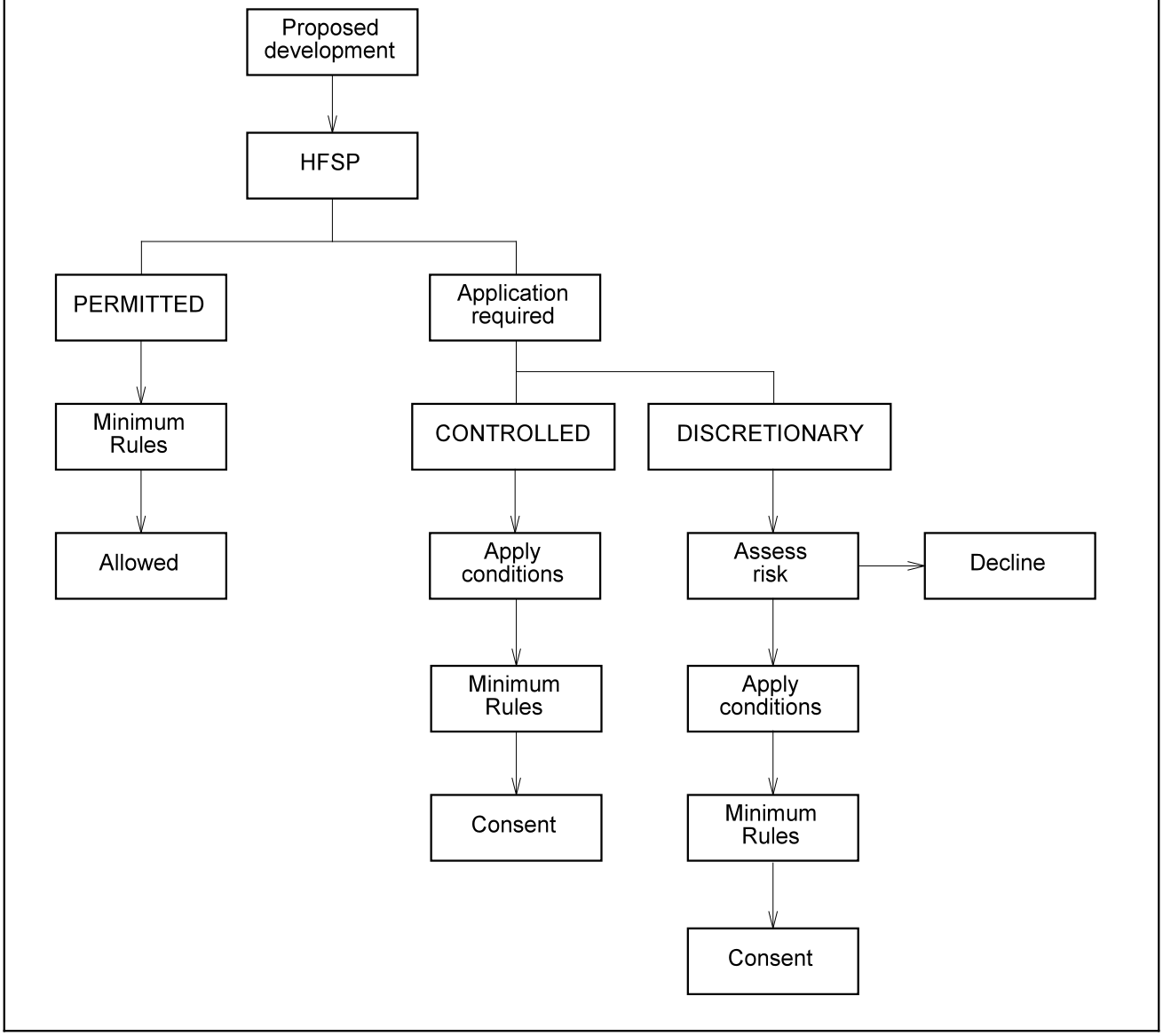
11.6.3 DEVELOPMENT CONTROLS

The development controls in 11.8 are designed to ensure better operation of the hazardous facility so that any significant adverse effects are avoided or mitigated.

11.6.4 OTHER METHODS

The Act requires the Council to consider alternative methods of achieving its purpose in addition to Plan rules (refer to Annex 1).

Figure 11.1 Consent Procedure



11.7 RULES - ACTIVITIES

11.7.1 DETERMINATION OF CONSENT STATUS

The HFSP provides a mechanism for assessing whether a proposed hazardous facility or activity listed in Figure 11.2 requires a resource consent, or can be carried out as a permitted activity. Hazardous facilities must be assessed in accordance with the HFSP procedure in Appendix 6 in order to establish the "*Effects Ratio"*. The Consent Status Table (Figure 11.2) lists the different "*Effects Ratio"* trigger level values for each area and type of activity. These values are intended to ensure that proposed facilities or activities listed in Figure 11.2 that are not permitted are subject to a higher degree of scrutiny. Any proposal will be subject to the Consent Procedure set out in Figure 11.1. Hazardous facilities are defined in section 16 of the Plan.

Any new hazardous facility or any existing hazardous facility which substantially expands or alters its operation must comply with the provisions of this table.

Explanation

The HFSP will act as a signal for hazardous facility operators as to the most appropriate locations for their activity. The procedure will also indicate to operators what are acceptable risk levels in different parts of the

Central Area. These indications or signals are intended to offer operators some certainty over the regulatory requirements they face and the likely outcome of any application. In addition, the community will be given some certainty over where hazardous facilities are likely to be established and the level of public participation provided for.

11.7.1.1 Buffer for sensitive land uses

Any hazardous facility that is proposed to be located within 30 metres of any other Category in Figure 11.2 or any Isthmus zone that is a more sensitive land use, will be subjected to the trigger level that is used for the more sensitive use. For the purposes of this rule, Category B of the table is more sensitive than Category C and Category C is more sensitive than Category A.

Explanation

This buffer is to ensure that appropriate safety measures are in place to provide for new activities or changes to existing activities do not impose significant risk to public health and safety for the potentially affected neighbouring land uses.

11.7.1.2 Contaminated site consents

a) Any activity which remediates on-site identified contamination is a restricted controlled activity and will be assessed in accordance with the criteria in Clause 11.7.7.3.

b) Any redevelopment of a contaminated or potentially contaminated site as defined in Part 16 is a restricted discretionary activity and will be assessed in accordance with the criteria in clause 11.7.7.5. Redevelopment includes the addition of new buildings or additions to existing buildings, but except for accommodation/non permanent accommodation, not the ongoing activities or occupation of the site for the same activity or change of activity within existing buildings. This rule does not include potentially contaminated sites that have been investigated and proven not to be contaminated. (see clause 11.7.2).

For the avoidance of doubt, clause 11.7.1.2(b) does not include;

(i) redevelopment insofar as it involves the provision of utility services (e.g. water or electricity supply), or

(ii) redevelopment which involves site works of less that 25m^3 of earthworks, provided that in respect of the earthworks:

- Works are limited to a maximum depth of 1.5 metres or remain above ground water and where the land is reinstated or works completed within six months.
- Excavated materials being disposed of directly to a disposal site which has been consented to accept contaminated materials.
- Disposal records are kept.
- Erosion and sediment controls are implemented in accordance with regional council requirements for permitted earthworks, or

(iii) Removal and reinstatement of surface pavement materials.

Explanation

The risk to both the environment and the community posed by contaminated sites means that proper consideration must be given to ensure that measures are taken so that the site is safe for any further proposed activity. In addition, because remediation measures can, in some instances, do further damage to the environment through exposing new pathways for contaminants to be released or by transferring contaminated materials to other sites, the Council will assess any such proposal to ensure that the remediation of a particular site is undertaken in accordance with stated guidelines, and in such a way as to achieve an appropriately higher level of environmental quality and public safety.

The purpose of the clause 11.7.1.2(b) paragraphs (i), (ii) and (iii) is to clarify that undertaking necessary minor works (such as the installation of lighting masts, shelters or small structures) as may be required as part of typical day to day operational and management activities are not captured by clause 11.7.1.2(b).

11.7.1.3 Radioactive material consents

a) Any use or storage of radioactive material with an activity below that specified as an exempt activity in the Radiation Protection Regulations 1982, is a permitted activity.

b) Any use or storage of radioactive material with an activity in excess of that specified in the Radiation Protection Regulations 1982 and below 10 terabecquerel is a discretionary activity.

c) Any facility using radioactive material with an activity in excess of 1,000 terabecquerel (1 x 10^{15}) is a prohibited activity.

Note: any use of radioactive material in smoke detectors is exempt from the requirements of these controls.

Explanation

Radioactivity has been deliberately excluded from the preliminary risk assessment procedures for two reasons. Firstly the type and degree of risk that is posed by radioactive material is different from and additional to that of other chemical compounds. Secondly, the use, storage and transport of radioactive material is controlled and

licensed by the Ministry of Health through the National Radiation Laboratory. However, while the licensing of uses and users is properly the responsibility of Central Government, the Council will still control the location of these activities in order to ensure the protection of neighbouring residents and workers.

11.7.2 PERMITTED ACTIVITIES

(i) Where any new hazardous facility or any existing hazardous facility that substantially expands or alters its operation is determined to be a permitted activity after screening under the HFSP it must also comply with the rules in 11.8 and all other relevant rules in the Plan.

(ii) The investigation of contaminated land or potentially contaminated land is a permitted activity.

11.7.3 PROHIBITED ACTIVITY

The use of explosives is prohibited for the demolition of any buildings in the Central Area.

Explanation

The Central Area is a busy commercial area with high density "people-related" activities. It is considered inappropriate to use explosives as there are other alternatives available to demolish buildings with certainty of the consequences.

11.7.4 NON-COMPLYING ACTIVITIES

Waste treatment or disposal facilities for any waste containing hazardous substances where this is the primary activity on the site shall be a non complying activity.

Explanation

Treatment or disposal of waste containing hazardous substances is considered inappropriate in the Central Area with the concentration of commercial and residential uses and is provided for in the business areas of the Isthmus Section of the District Plan. The HFSP risk screening procedure has not been designed for evaluating the potential risk from waste treatment and disposal facilities because of the varied nature of the input waste which can be highly noxious both in terms of hazards and odour.

Figure 11.2 Consent Status Matrix Table

Area or Activity	Permitted activity effects ratio	Controlled activity effects ratio	Discretionary activity effects ratio
Category A Wynyard Quarter Port Precinct	< 1	1 - 2	> 2
Category B Open Space Precincts All residential accommodation and non permanent accommodation activities; Hospitals, rest homes, child care facilities, schools not in the Education Precinct	≤0.05	-	> 0.05
Category C All other areas including the Education Precinct	<0.2	0.2 - 0.4	>0.4

11.7.5 CONTROLLED ACTIVITIES

11.7.5.1 Assessment criteria

All controlled activities for hazardous facilities shall be assessed against the following criteria:

a) whether the proposal will comply with all other relevant controls in the Plan and the development controls in 11.8, and

b) whether the objectives and policies for the relevant SMA and Precinct or Quarter (if applicable) are met, and

c) whether the risks associated with the proposal are able to be avoided or mitigated.

Conditions

Conditions may be imposed on particular proposals in relation to the following matters:

a) hazards and exposure pathways

b) the surrounding natural and physical environment (eg, aquifers, streams, wetlands, habitats)

c) the separation distances from neighbouring activities and number of people potentially at risk from the facility

d) managing risks to adjacent property

e) cumulative effects of hazardous facilities in the area

f) site drainage and off-site infrastructure (eg, stormwater, sewer type and capacity)

g) access to and from the road network

h) site layout and design

i) fire safety and fire water management, and

j) spill contingency and emergency planning, monitoring and maintenance schedules.

Other conditions may be imposed to ensure that particular measures are undertaken so that any risk posed by the proposal is avoided or satisfactorily mitigated.

11.7.6 DISCRETIONARY ACTIVITIES

11.7.6.1 Assessment criteria

In addition to the items listed in Clause 11.7.5.1, an application for discretionary activity for a hazardous facility shall be accompanied by an assessment of the environmental effects of the proposed hazardous facility in terms of Part 15 and a site management plan including a spill contingency plan. These shall be provided in such detail as corresponds with the scale and significance of the actual or potential effects (particularly risk) of the project. Any application shall be assessed having regard to the following matters:

a) whether the proposal is consistent with the objectives and policies of the relevant SMA**,** Precinct or Quarter (if applicable);

b) whether the proposal will comply with all other relevant controls in the Plan and the development controls in 11.8;

c) whether the proposal is acceptable after a risk assessment as described below.

Risk assessment

A qualitative or quantitative risk assessment identifying any risk to the environment may be required depending upon the scale or potential effects of the proposed activity with emphasis on the following issues:

i) separation distance to "people-sensitive activities" (particularly schools, rest homes, hospitals, shopping centres, etc)

ii) location in relation to nearest aquifer, stream or the coast

iii) nature of subsoil and site geology

iv) distance to sensitive habitats in the area or water catchment

v) cumulative and synergistic effects, and bio-accumulation of hazardous substances used or stored

vi) fire safety and fire water management

vii) adherence to health, safety and environmental management systems.

viii) Council considers the use of any one of the following systems, such as the NZCIC Responsible Care Management System, the DNV International Safety Rating System, appropriate ISO 14000 series system or other recognised and accepted system will satisfy this requirement if included in the resource consent. The Council will give consideration to any other alternative site management system which will achieve the same intent as any of the above systems; spill contingency and emergency planning, monitoring and maintenance schedules.

ix) site drainage and off-site infrastructure (eg, stormwater, sewer type and capacity).

x) access to and from the road network; and

xi) toxicity and mobility of contaminants.

d) whether appropriate site management systems are proposed.

Consideration will be given to specific spill contingency plans, staff training, emergency procedures, stormwater management, treatment and disposal procedures for hazardous waste, fire safety, transportation, and monitoring and maintenance procedures.

e) whether there are reasonable alternatives to the proposal.

A description of any possible alternative locations or methods for undertaking the activity shall be submitted, where it is likely that an activity will result in any significant adverse effects on the environment.

f) whether there will be any unacceptable effects on the traffic safety of the adjoining road network.

11.7.7 CONTAMINATED SITES AND POTENTIALLY CONTAMINATED SITES

The following shall apply to applications in relation to remediation or redevelopment of contaminated and potentially contaminated sites.

11.7.7.1 Restricted Controlled Activities - Remediation of onsite identified contamination

11.7.7.2

The following information shall be included in any application for restricted controlled activity resource consent:

i) Site history information which identifies as far as practicable the past activities that have occurred.

ii) An assessment of the extent to which the soils and groundwater within the site is contaminated.

iii) A health and safety plan covering the intended work

iv) A remediation action plan which indicates the measures by which the site will be remediated and restored.

v) An assessment to demonstrate that the effects of remediation are acceptable and that the level of remediation proposed is appropriate to the end land use activity.

11.7.7.3 Assessment criteria

The Council will have regard to the assessment criteria set out below when considering an application under section 104 of the Act.

i) The nature and extent to which the soils and groundwater within the site are contaminated

ii) The measures by which the site will be remediated and restored.

iii) That any adverse effects on the environment will be avoided, remedied or mitigated

iv) Whether the land is safe for the intended use

The application must demonstrate that the site is safe for the intended use, and that any adverse effects on the environment will be avoided, remedied or mitigated. An application which complies with the Ministry for the Environment Guidelines Nos 1-5 Contaminated Land Management will be deemed to meet these requirements.

11.7.7.4 Conditions

In granting consent to a restricted controlled activity the Council may impose conditions in respect of the matters specified in section 108 of the Act and in respect of the following matters:

a) A requirement to undertake remediation works in accordance with an approved remediation action plan.

b) A requirement to undertake a valuation exercise to confirm the performance of the remediation works and to identify any residual contamination of the site.

c) Controls on the excavation and removal of material, procedures for controlling stormwater runoff from the site, and control of dust emissions from the site.

d) For vacant sites, the nature of the edge treatment and the landscaping or finishing of the site.

e) Specifying the site management systems to be used for the ongoing management of the site including monitoring to assess effects during and after site works.

11.7.7.5 Restricted Discretionary Activities - Redevelopment of contaminated or potentially contaminated sites

a) A restricted discretionary activity application to redevelop a known contaminated or potentially contaminated site will be assessed in terms of the criteria set out in Clause 11.7.7.3 and of the *Ministry for the Environment Guidelines Nos 1-5 Contaminated Land Management*.

For applications in which a known contaminated site is being redeveloped it must be demonstrated that there are no off-site adverse effects and that measures will be taken to ensure the safe operation of the proposal on the contaminated site. Any contaminated material transported for disposal to another site may require a 'discharge of contaminants' permit from the Auckland Regional Council.

11.7.8 EXEMPT ACTIVITIES

Hazardous facilities that comply with approved codes of practice may be exempted from the HFSP. An industry group whose activities have satisfactorily avoided, remedied or mitigated adverse environmental effects shall be regulated in accordance with the relevant SMA and Precinct or Quarter provisions, and where a resource consent is required, their storage or use of hazardous substances shall be assessed in accordance with the controlled activity criteria set out in 11.7.5. The following activities are deemed to comply with this exemption:

a) the retail sale of petrol (up to 100,000 litres storage in underground tanks) and diesel (up to 50,000 litres storage in underground tanks) provided that there is adherence to the Code of Practice for *Design, Installation and Operation of Underground Petroleum Systems*, published by the Department of Labour, OSH 1992.

b) retail LPG outlets (up to 6 tonnes, single vessel storage) provided that there is adherence to the Australian Standard *LP Gas Storage and handling - Siting of LP Gas automotive retail outlets (supplement to AS1596-1989)*.

11.8 RULES - DEVELOPMENT CONTROLS

The following controls relate to all hazardous facilities and are in addition to the standard development controls of the relevant SMA**,** Precinct or Quarter.

11.8.1 SITE DESIGN AND MANAGEMENT

The following site design and management performance standards apply to new hazardous facilities and existing hazardous facilities that substantially expand or alter their operations.

11.8.1.1 General Requirements for Spill Containment

The site or part(s) of the site immediately involved in the manufacturing, mixing, packaging, storing, loading, unloading, using or handling of hazardous substances, which are contaminants will be designed, constructed and managed, taking all practicable steps to ensure:

a) That any spillage, release or otherwise:

   i) will not contaminate land, ground water, any water body, or potable water supply and

   ii) will not enter or be discharged into any drainage or sewerage utility system, contrary to the network utility operator's rules.

b) That any storm-water originating on site or collected on site:

   i) will not contaminate land, ground water, any water body, or potable water supply by acting as a carrier or transport medium for hazardous substances which are contaminants; and

   ii) will not enter or be discharged into any drainage or sewerage utility system contrary to the network utility operator's rules.

c) That any hazardous substance where the intended function requires that it is placed in or on, ground or water, is managed in such a way that:

   i) the effects of the intended function are not manifested outside the intended or target area contrary to the manufacturer's specified limits or accepted industry standards; and

   ii) the hazardous substance will not contaminate land, ground water, any water body, or potable water supply outside the intended area; and

   iii) the hazardous substance will not enter or be discharged into any drainage or sewerage utility system contrary to the network utility operator's rules.

Note: ***All practicable steps,*** in relation to achieving any purpose in any circumstances, means all steps to achieve the purpose that it is reasonably practicable to take in the circumstances, having regard to:

- the nature and severity of the contamination that may be suffered if the purpose is not achieved, and
- the current state of knowledge about the likelihood that contamination of the nature and severity as in (a) above will be suffered if the purpose is not achieved, and
- the current state of knowledge about contamination of that nature, and
- the current state of knowledge about the means available to achieve the purpose, and about the likely efficacy of each, and
- the availability and cost of each of those means.

11.8.1.2 Spill Containment System Criteria

The following approaches satisfy the requirements of Clause 11.8.1.1.

a) That part(s) of the site, referred to in Clause 11.8.1.1, shall be protected by a spill containment system. The spill containment system shall be:

   i) constructed from impervious materials that are resistant to the hazardous substances involved

   ii) able to contain the maximum volume of the largest tank used. Where drums or other containers are used the spill containment system shall be able to contain half of the maximum volume of substances stored or 5,000 litres whichever is the lesser, and

   iii) designed, constructed and managed so that any spill or release of any hazardous substance and any stormwater that may have entered and become contaminated in the spill containment system, is:

   - prevented from entering the stormwater drainage system, and
   - prevented from discharging into or onto land or ground water, any water body, or potable water supply.

b) Underground storage tanks shall be designed and constructed to contain any leakage. A leak detection system shall be integral to the design of the tank backed up with an effective monitoring programme. For petroleum products, compliance with the Code of Practice for *Design, Installation and Operation of Underground Petroleum Systems* (or any subsequent amendment) by the Department of Labour, OSH, 1992 is deemed to meet this requirement.

c) All stormwater grates shall be clearly marked to ensure that hazardous substances are not inadvertently released into the stormwater system.

d) That part of the site where vehicles, equipment or containers that are or may have become contaminated with hazardous substances are washed shall be designed and constructed so that any contaminated effluent from the wash down area or washing facility cannot be discharged to the stormwater drainage system, to land, to ground water, to any water body, or to potable water supply unless a resource consent to discharge or appropriate permit allows otherwise.

Explanation

The spillage of hazardous substances can occur through accidental or deliberate discharge to land or water. This usually occurs when they are improperly managed or stored. These rules are intended not only to reduce the number of spills, but also to reduce the impact of the spills that do occur.

11.8.2 WASTE MANAGEMENT

a) Any wastes or any wastes containing hazardous substances will be managed so that they are not:

   i) discharged into any drainage or sewerage utility system contrary to the network utility operator's rules or

   ii) discharged into or onto land, ground water, any water body, or potable water supply unless a resource consent allows otherwise.

b) The storage of any waste or any waste containing hazardous substances will comply at all times with Rule 11.8.1.

c) The Council considers the following approaches will satisfy the requirements of Rule 11.8.2 but will give consideration to any alternative proposal which will achieve the same intent.

   i) At all times, sites which generate any waste or waste containing hazardous substances shall either use collection and disposal methods that meet recognised and accepted environmental standards for such waste, or be regularly serviced by reputable waste disposal service companies.

   ii) On every site where any waste is collected into containers, the containers shall be suitably designed for such waste and protected so that any storm water can not enter and cause the containers to overflow.

Explanation

If wastes and particularly hazardous wastes are improperly managed there is a high potential for environmental harm. The aim should be to provide for integrated waste management with the highest practical rate of waste reduction, reuse and recycling, and the application of the principles of cleaner production engineering. Hazardous waste includes all materials that are, or contain, considerable quantities of hazardous substances. Wherever possible less harmful substitutes should be considered in preference to hazardous materials so as not to generate hazardous waste. The evaluation of options for cleaner production as outlined in the Auckland Regional Council's Tradewaste Bylaw 1991 is recommended to prevent, eliminate, or reduce the generation of all hazardous waste.

11.8.3 SIGNAGE

All hazardous facilities shall have adequate signage for the hazardous substances used.

Compliance with the Code of Practice for *Warning Signs for Premises Storing Hazardous Substances* published by the New Zealand Chemical Industry Council October 1988 (or any subsequent amendment) will be deemed to satisfy this requirement but consideration will be given to any alternative proposal which will achieve the same intent.

Explanation

It is important that in the case of any accident or fire the emergency services are able to determine what materials are on or could be expected to be on the site.

11.9 REFERENCES

Reference should also be made to the following parts of the Plan:

Part 1 ..... District Plan Structure

Part 2 ..... District Plan Development

Part 3 ..... Resource Management

Part 4 ..... Strategic Management Areas

Part 5 ..... Activities

Part 6 ..... Development Controls

Part 7 ..... Noise, Signs and Lighting

Part 8 ..... Financial Contributions

Part 9 ..... Transportation

Part 10 ..... Heritage

Part 12 ..... Network Utility Services

Part 13 ..... Subdivision

Part 14 ..... Precincts and Quarters

Part 15 ..... General Rules/Designations

Part 16 ..... Definitions and Interpretations

See key on page 1 of this section