

## **Hazards and Risks – Hazardous Substances**

### **Section 32 Report for the Proposed Waitomo District Plan**

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SUMMARY OF ISSUES	RESOURCE MANAGEMENT ACT 1991	NATIONAL DIRECTION	REGIONAL POLICY STATEMENTS	IWI MANAGEMENT PLANS CONT...
<p>The hazardous substances chapter addresses the following issues:</p> <ul style="list-style-type: none"> <li>Risks to human health, property, and the environment when new significant hazardous facilities are established and when existing significant hazardous facilities are expanded or changed.</li> <li>Risks to human health and property from incompatible land use when new sensitive activities locate in proximity to existing significant hazardous facilities.</li> </ul>	<p><b>Section 5</b> Hazardous substances when not properly managed, or when there is an accident, have the potential to result in adverse effects to both people and the environment. The risk is usually increased when there is a significant volume of hazardous substances stored at one facility. It is therefore important that the use and location of hazardous substances are appropriately located and managed to ensure that adverse environmental effects on the environment are avoided, remedied or mitigated.</p> <p><b>Section 6 RMA</b> There are no section 6 matters relevant to this topic.</p> <p><b>Section 7 RMA</b> There are no section 7 matters relevant to this topic.</p> <p><b>Section 8 RMA</b> There are no section 8 matters relevant to this topic.</p>	<p>There are six National Policy Statements (NPSs) currently in place:</p> <ul style="list-style-type: none"> <li>New Zealand Coastal Policy Statement 2010</li> <li>NPS for Electricity Transmission 2008</li> <li>NPS for Renewable Electricity Generation 2011</li> <li>NPS for Freshwater Management 2020</li> <li>NPS on Urban Development 2020</li> <li>NPS for Highly Productive Land 2022</li> </ul> <p>It is considered that none of the 6 NPSs listed above are relevant to this Chapter.</p> <p>There are also 8 National Environmental Standards (NESs) currently in place:</p> <ul style="list-style-type: none"> <li>NES for Air Quality 2004</li> <li>NES for Sources of Human Drinking Water 2007</li> <li>NES for Telecommunication Facilities 2016</li> <li>NES for Electricity Transmission Activities 2009</li> <li>NES for Assessing and Managing Contaminants in Soil to Protect Human Health 2011</li> <li>NES for Plantation Forestry 2017</li> <li>NES for Freshwater 2020</li> <li>NES for Storing Tyres Outdoors 2021</li> </ul> <p>There is no NESs relevant to this chapter.</p> <p><b>Relevant case law considered</b> It is considered that there is no case law relevant to the section 32 evaluation for this topic.</p>	<p>The Waikato Regional Policy Statement (WRPS) became operative on 20 May 2016. Section 4.2.9 of the WRPS sets out the responsibilities for controlling the use of land to prevent or mitigate the adverse effects of the storage, use, disposal, or transport of hazardous substances. The responsibility for specifying objectives, policies and methods including rules is specified as being the District Councils in the Waikato Region in relation to all land outside of the coastal marine area and beds of rivers, lakes, and other water bodies.</p> <p>The WRPS directs responsibility for hazardous substances to Territorial Authorities (and this remains valid until the RPS is amended) and the Waikato Regional Plan relate primarily to the discharge of contaminants to water, soil and air.</p> <p>The Manawatu-Wanganui One Plan contains specific provisions for hazardous substances. Objective 3.5 The Regional Council and Territorial Authorities must work together in a regionally consistent way to:</p> <ol style="list-style-type: none"> <li>minimise the quantity of waste generated in the Region and ensure it is disposed of appropriately;</li> <li>manage adverse effects from the use, storage, disposal, and transportation of hazardous substances; and</li> <li>manage adverse effects from contaminated land.</li> </ol> <p>Policy 3.9 – Where a proposal has the potential to give rise to significant adverse effects on the receiving environment, an assessment must be required, as part of the consent information requirements for all discharges to air, land, water, and the coastal marine area, of:</p> <ol style="list-style-type: none"> <li>reduction, reuse, recycle and recovery options for the discharge in accordance with Policy 3-8, and</li> <li>any hazardous substances that may be present in the discharge, and alternatives to those hazardous substances.</li> </ol> <p>Policy 3.12 – In accordance with s62(1)(i) RMA, local authority responsibilities for the management of hazardous substances in the Region are as follows:</p> <ol style="list-style-type: none"> <li>The Regional Council must be responsible for developing objectives, policies, and methods to control the use of land for the purpose of preventing or mitigating the adverse effects of the disposal of hazardous substances</li> <li>Territorial Authorities must be responsible for developing objectives, policies, and methods to control the use of land for the purpose of preventing or mitigating the adverse effects of the storage, use or transportation of hazardous substances.</li> </ol>	

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OPERATIVE WAITOMO DISTRICT PLAN			IWI MANAGEMENT PLANS	OTHER RELEVANT PLANS OR LEGISLATION
<ul style="list-style-type: none"> <li>Hazardous substances are currently subject to the objectives, policies, rules, and methods in Chapter 17 (Hazardous Substances and Contaminated Land) of the ODP.</li> </ul>			<p>The relevant Iwi Environmental Management Plans for the Waitomo District have been identified by Council staff as the Waikato-Tainui Environmental Management Plan 2018 and the Maniapoto Environmental Plan 2018. Neither plan contains specific matters relating to land use activities involving the management of hazardous substances. Individual matters addressed relate to pest control and soil/water quality, particularly discharges of contaminants. While that is primarily a Regional Council function it needs to be ensured that provisions for the land use management of hazardous facilities in District</p> <p>The PDP is not inconsistent with the relevant objectives of the Iwi Environmental Management Plans.</p>	<p>The Hazardous Substances and New Organisms Act 1996 (HSNO) is the primary legislation for managing hazardous substances. Recent RMA Amendments have removed Council’s functions pursuant to section 31 in regard to hazardous substances. However, Council can still require provisions in accordance with section 5 to manage resources in a way, and at a rate, which enables people and communities to provide for their health and safety, and with section 31(1)(a) to achieve integrated management of effects. This would mean that any gaps are covered to ensure any adverse environmental effects are controlled by the District Plan.</p> <ul style="list-style-type: none"> <li>The ODP ensures that hazardous substance use, and storage is located, designed, and managed to avoid and mitigate adverse effects on the environment in the Waitomo District. The ODP provisions support the HSNO and its regulations which address matters such as labelling, packaging and container integrity, basic emergency management and competency of staff handling hazardous substances. The rules of the District Plan address effects considered not to be covered fully by the Hazardous Substances and New Organisms legislation, especially risks that are specific to the location of land uses, due to land use zoning or proximity to water bodies or coastal water.</li> <li>Conditions (including quantities) on hazardous substance relate to site-specific issues where generic HSNO requirements may not be sufficient to minimise risks to levels acceptable to the community. More significant new hazardous facilities require an assessment of risks in relation to their proposed location, a process only provided for under the RMA. On this basis, site and activity-specific controls on risk mitigation, risk communication, and emergency management may be required in the context of the surrounding environment and land.</li> </ul>
<p><b>SCALE &amp; SIGNIFICANCE</b> s32(1)I</p>				<p><b>STRATEGIC DIRECTION</b></p>
<p>The assessment is based on eight factors outlined in Ministry for the Environment’s guidance on Section 32 reports. Each factor is scored in terms of its scale and significance (where 1 is low and 5 is high).</p> <p>Reason for Change: 1                      Problem / Issue: 1                      Degree of Shift from Status Quo: 1                      Who and How Many Affected, Geographic Scale of Effects: 1                      Degree of Impact on or Interest from Maori: 1                      Timing and Duration of Effects: 1                      Type of Effect: 1                      Degree of Risk or Uncertainty: 1</p> <p><b>Total (out of 40): 8</b></p>				<p>The following objective from the Strategic Directions chapter of the PDP are relevant to this topic:SD-O5. Compatible activities with similar effects and functions are located together and new development is directed towards the appropriate zones to ensure that land use and subdivision:</p> <ol style="list-style-type: none"> <li>Are consistent with the anticipated character and amenity values of the areas where they are located; and</li> <li>Efficiently use natural and physical resources in order to meet the community’s and the environment’s needs both now and in the future; and</li> <li>Recognise existing lawful activities and protect their ongoing operation from incompatible activities.</li> </ol>

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<b>OBJECTIVE(S) s32(1)(a)</b>	
<p><b>Relevance</b> - Addresses a relevant resource management issue. Assists the Council to undertake its functions under section 31 of the RMA and gives effect to higher level documents.</p> <p><b>Usefulness</b> – Guides decision-making. Meets best practice for objectives.</p> <p><b>Reasonableness</b> – Will not impose unjustifiably high costs on the community / parts of the community. Acceptable level of uncertainty and risk.</p> <p><b>Achievability</b> – Consistent with identified community outcomes. Realistically able to be achieved within the Council’s powers, skills, and resources.</p> <p>This is the most appropriate approach to achieve the objective, since it best recognises the role of non-RMA regulations and regional plans in managing the effects of hazardous substances, and the role for the district plan is to manage the risk that is not effectively addressed by this legislation, the residual risk, and reverse sensitivity effects. The provisions give effect to the RPS and achieve the strategic directions.</p>	
<b>PROVISIONS s32(1)(b)</b>	
<b>EFFICIENCY &amp; EFFECTIVENESS s32(1)(b)(ii), 32(2)(a)(i), s32(2)(a)(ii)</b>	<b>ALTERNATIVES s32(1)(b)(i)</b>
<p><b>Benefits Anticipated</b></p> <p><u>Environmental</u> Reduced risk of hazardous substances entering waterways from significant hazardous facilities. When significant hazardous facilities are located close to waterways there is the potential for increased risk to the environment. The provisions seek to manage this risk through the resource consent process when existing significant hazardous facilities are looking at expanding and through requiring consent for new significant hazardous facilities.</p> <p>By requiring consent for existing significant hazardous facilities that are looking to expand in more sensitive environments and new significant hazardous facilities residual risk to human health and the environment from significant hazardous facilities will be avoided or mitigated to acceptable levels. This complements the HSNO and WorkSafe regulatory frameworks. The provisions will result in residual risk to a range of values in sensitive environments being avoided, or where this is not practicable, remedied or mitigated. This complements the HSNO and WorkSafe regulatory frameworks, as well as the regional plans.</p> <p>The management of residual risk to human health and a range of cultural and natural values, also contributes to improved environmental outcomes for an area.</p> <p><u>Economic</u> For most activities that use hazardous substances there will be reduced consent costs and time due to removal of duplication with non-RMA regulations, and regional plans. Noting the definition specifically excludes activities such as the use of hazardous substances in domestic quantities and the quantities that are typically stored on farm as well as the use of hazardous substances in a number of other circumstances.</p> <p><u>Social</u> Through the resource consent process the management of risk to human health from new facilities or the expansion of existing facilities in more sensitive environments will provide social benefits.</p> <p><u>Cultural</u> Avoiding increased risk to waterways from spills is an important issue for mana whenua and potential risk to sites and areas of significance.</p> <p><b>Costs Anticipated</b></p> <p><u>Environmental</u> No environmental costs are identified from these provisions only benefits.</p> <p><u>Economic</u> There will be a cost to the Council in administering the new provisions, particularly in relation to processing consent applications; albeit the fair and reasonable costs of this can be recouped from the applicant. Additionally, there are already costs associated with administration of the broader requirements of the operative district plan. There is the potential for reduced location options for activities that store, use, or dispose of hazardous substances, where the activity falls within the definition of a significant hazardous facility.</p> <p><u>Social</u> None are considered applicable to this assessment.</p> <p><u>Cultural</u> The activity status for new significant hazardous facilities will mean effect on heritage values can be assessed for new facilities, also the same situation will apply when existing facilities are looking at expanding in more sensitive zones.</p>	<ul style="list-style-type: none"> <li>Status quo: the objectives seek only to manage the use, storage and transportation of hazardous substances, duplicates controls available under other regulations and is beyond the Council’s functions under section 31 of the RMA. It does not guide decision makers in assessing a resource consent under section 104 in regard to the relationship between the different sets of legislation and regulations.</li> </ul> <p>It is considered that the proposed objective is the most relevant, useful, reasonable, and achievable option. It will also better give effect to the HSNO and the purpose and principles of the RMA and aligns with best practise drafting for objectives than the alternatives.</p>
<b>QUANTIFICATION OF BENEFITS &amp; COSTS s32(2)(b)</b>	
<p>Section 32(2)(b) of the RMA requires that, where practicable, the benefits and costs of a proposal are to be quantified. Given the assessment of the scale and significance of the proposed provisions, specific quantification of the benefits and costs in this report is considered neither necessary, beneficial nor practicable in relation to this topic.</p>	

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<b>EFFICIENCY &amp; EFFECTIVENESS</b> s32(1)(b)(ii)	<b>REASONS FOR PROVISIONS</b> s32(1)(b)(iii)
<p>Section 32(1)(b)(ii) requires assessing the efficiency and effectiveness of the provisions in achieving the objectives:</p> <p><u>Effectiveness</u></p> <ul style="list-style-type: none"> <li>- The provisions are the most effective method for meeting the objectives as they best ensure that residual risk to human health and safety, and to a range of cultural, historic heritage and natural environment values (including waterways) are managed. This is principally through the activity status for new significant hazardous facilities and where existing significant facilities seek to significantly expand. They also protect areas that provide for activities that involve hazardous substances from reverse sensitivity effects; and likewise protect areas with high concentrations of sensitive activities from hazardous substances. This regulatory regime directly addresses reverse sensitivity risk. The methods rely on well-established regulatory frameworks under HSNO, WorkSafe and regional plans, and in other PDP chapters.</li> </ul> <p><u>Efficiency</u></p> <ul style="list-style-type: none"> <li>- The provisions will achieve the objectives at the highest net benefit to the community, particularly in managing potential risk to human health and to a range of cultural, historic heritage and natural environment values, and managing reverse sensitivity effects. Overall, the benefits outweigh the costs. The provisions will provide a clearer regulatory framework, that better integrates and complements non-RMA regulations and the regional plans than the operative district plan.</li> </ul>	<p>The provisions appropriately give effect to higher order policy documents, including being consistent with the HSNO and the purpose and principles of the RMA. They are considered to be efficient and effective, as the identified costs are acceptable, while providing benefits, particularly social and economic benefits. They best manage the risk to people and communities from the use and establishment of facilities that use significant quantities of hazardous substances.</p>