

PART FOURTEEN - HAZARDOUS SUBSTANCES, FACILITIES AND CONTAMINATED SITES

NOTE:- LAKES A ZONE

Part Fourteen has relevance within the Lakes A Zone. Refer to Part Fourteen that is part of Rule 1.1 of the Lakes A Zone.

1 INTRODUCTION

1.1 BACKGROUND

Under Section 31 of the *Resource Management Act 1991*, the Council has a duty to control the actual or potential effects of the use, development or protection of land, including the implementation of methods to avoid, remedy or mitigate any adverse effects from the storage, use, disposal or transportation of hazardous substances.

A hazardous substance is defined in Section 344 of the RMA as:

any substances which may impair human, plant or animal health, or may adversely affect the health or safety of any person or the environment, and whether or not contained in or forming part of any other substance or thing.

This broad definition includes substances that were not covered by previous dangerous goods and toxic substances legislation. The *Hazardous Substances and New Organisms Act 1996* goes further and defines hazardous substances as substances:

- “(a) With one or more of the following intrinsic properties:
- (i) Explosiveness:
 - (ii) Flammability:
 - (iii) A capacity to oxidise:
 - (iv) Corrosiveness:
 - (v) Toxicity (including chronic toxicity):
 - (vi) Ecotoxicity, with or without bioaccumulation; or

- (b) *Which on contact with air or water (other than air or water where the temperature or pressure has been artificially increased or decreased) generates a substance with any one or more of the properties specified in paragraph (a) of this definition.”*

In order to manage the effects of hazardous substances, the District Plan focuses on those facilities and land use activities which store, use, dispose or transport hazardous substances, rather than on the substances themselves.

2 RESOURCE MANAGEMENT ISSUES

2.1 ISSUE ONE

Adverse effects on the District's natural and physical resources arising from the storage, use, disposal or transportation of hazardous substances

2.1.1 ISSUE STATEMENT

The storage, use, disposal or transportation of hazardous substances is an accepted and essential part of many industrial and rural activities. In Rotorua, the District's rivers and lakes are sensitive to contamination from hazardous substance spillage within their catchments. Most industrial land use activities in the District are located within the water catchment area of Lake Rotorua. In addition, agricultural activities can require the storage and use of substantial amounts of hazardous substances. Several of the lake catchments within the Rotorua District contain farming activities which if there was a spill or accidental release of hazardous substances would impact on sensitive lake and river waters. There are also a number of land use activities which use hazardous substances within some of the District's groundwater recharge areas, which are also used as potable water supplies. Some of these areas are also within a lake catchment.

There is always some risk to the health and safety of the Community and the environment from the storage, use, disposal or transportation of hazardous substances. However, this risk must be balanced against the benefits derived from the use of hazardous substances for the Community, as there is a demand by consumers for goods and services that have a hazardous substances component.

The storage of hazardous substances involves the containment of a substance and/or substances above or below the ground. Occupational Safety and Health legislation controls the health and safety of employees in the workplaces, but a hazardous substance spill or accidental release can adversely affect the wider Community as well as people living and working in close proximity to hazardous facilities. The risk from leakage and spillage from storage facilities and their proximity to sensitive areas, including residential areas and lake catchments within the District, is an issue for the Rotorua District.

Hazardous substances require careful disposal to avoid adverse effects on the environment or on the health and safety of the Community, for example, to avoid creating contaminated sites. Disposal may involve a range of options and technologies such as incineration, reprocessing or disposal in a landfill. It is important therefore that the technologies that present the least risk to the environment or health and safety of the Community are utilised.

The transportation of hazardous substances poses risks similar to those posed by the use and storage of hazardous substances in terms of uncontrolled or accidental releases. However, the transportation of hazardous substances is well regulated by other agencies, specifically the Land Transport Safety Authority under the *Land Transport Act 1993*. Controlling the transport of hazardous substances by identifying appropriate transport routes and requiring a consent holder to use them as part of a condition of a resource consent, poses practical problems for the Council in respect of monitoring and costs associated with administering such controls.

The main issue of the storage, use, disposal or transportation of hazardous substances and the management of hazardous facilities is the risk of adverse effects on the health and safety of the Community and the environment. The risks to the environment or the health and safety of the Community may not always coincide. Community risks concern health, personal and public safety and property protection. Environmental risks concern environmental degradation, habitat destruction and water, soil and air pollution.

2.1.2 RESOURCE MANAGEMENT OBJECTIVE

To avoid, remedy or mitigate any adverse effects from any land use activity involving the storage, use, disposal or transportation of hazardous substances within the District, so as to provide an acceptable level of risk to the natural and physical resources and to the health and safety of the community.

2.1.3 POLICIES

Objective **2.1.2** will be achieved through Policies **2.1.3.1** and **2.1.3.2** which focus on the management of land use activities and facilities storing, using, disposing of or transporting hazardous substances. The policies are directed at avoiding, remedying or mitigating adverse effects of risks posed to the environment and the health and safety of the community rather than on the substances themselves. Policy **2.1.3.3** promotes an education and information approach focusing on the reduction, reuse, recycling, recovery and residual waste management of hazardous substances thereby minimising risks to the environment and the health and safety of the Community.

2.1.3.1 Policy:

To ensure that risks associated with land use activities and facilities storing, using, disposing or transporting hazardous substances are managed to avoid,

remedy, or mitigate any adverse effects on the environment and the health and safety of the Community.

Explanation

The Council recognises the potential risks to natural and physical resources and the health and safety of the Community from land use activities and facilities storing, using, disposing or transporting hazardous substances and therefore will require adverse effects to be avoided, remedied or mitigated

2.1.3.2 Policy:

To ensure that the cumulative effects from land use activities and hazardous facilities storing, using, disposing or transporting hazardous substances on the environment and on the health and safety of the Community are avoided, remedied or mitigated.

Explanation

The Council wishes to ensure that the cumulative effects of land use activities and hazardous facilities storing, using, disposing or transporting hazardous substances are managed to avoid, remedy or mitigate any adverse effects from such activities on the natural and physical environment and the health and safety of the Community.

2.1.3.3 Policy:

To increase the level of public and user knowledge and involvement in minimising the use of hazardous substances, and education in the safe and best practice methods of storing, using, disposing or transporting of hazardous substances.

Explanation

Council recognises that the lack of information and the lack of education of users of hazardous substances (particularly with respect to proper use and disposal) can contribute to the risk of environmental damage and risks to human health and safety. The best way to protect the environment and the health and safety of the community, is to prevent or minimise the risks posed by hazardous substances in the first place. Enforcement of rules after a hazardous substance has been released does little to protect the environment or promote the health and safety of people. Education of the general public and provision of information to users is a method available to Council outside the District Plan to address the risks posed by the storage, use disposal, or transportation of hazardous substances on the environment and on the health and safety of the community. This method is discussed in Section 3.6 – Promotion and Education.

2.1.3.4 **Policy:**

To take a proactive role in encouraging and facilitating the remediation of contaminated sites

Explanation

Council acknowledges the importance of remediating contaminated sites and recognises that its support will assist the planning and implementation of remediation and consequently reduce future environmental risks within then District.

2.2 **ISSUE TWO**

Contaminated sites pose risks to human health and safety and to the environment

2.2.1 **ISSUE STATEMENT**

Within the District there are a number of identified contaminated sites which are known to have become contaminated through the spillage and/or leakage of hazardous substances, or through uncontrolled dumping or disposal. There are also sites within the District where the disposal and/or leakage of waste hazardous substances by activities is unknown. Such sites may still be potentially contaminated. Contaminated sites, both known and unknown, can adversely effect the land, watercourses and underground aquifers. The health and safety of present and future occupiers of a contaminated site may also be at risk, as could the adjoining properties. New technologies and improved operation procedures are reducing the risk of site contamination. Continued technological improvements by activities and facilities storing, using, disposing or transporting hazardous substances and more effective management and operating procedures are important for ongoing risk reduction in respect of contaminated sites.

As contaminated sites in the Rotorua District are identified by the Regional Councils or the District Council, they will be noted by the District Council and where the extent of the contamination is known "Hazard Cautions" will be placed on the Council's property files.

An associated issue in respect of contaminated sites is their cleanup or remediation in ways that are effective and do not exacerbate or transfer the problem to other sites within the District.

There are a number of outstanding matters concerning contaminated sites which need to be resolved before any effective and integrated management regime can be developed to address their cleanup or remediation. These matters include the standards and responsibilities for identification, standards for remediation, and the division of responsibilities between the Council and regional councils. Under s30(1)(f) of the Resource Management Act 1991, regional councils have the function of controlling the discharge of contaminants into or onto land, air or

water. Accordingly, any discharge of a hazardous substance may also be controlled through regional rules and consents.

The controls on remediation and redevelopment of contaminated sites are to be reviewed in conjunction with Bay of Plenty and Waikato Regional Councils, when responsibilities and standards have been resolved.

The prevention of future contamination will be achieved by obtaining effective control of the disposal of waste hazardous substances and by other policies ensuring the proper design and management of hazardous facilities.

2.2.2 RESOURCE MANAGEMENT OBJECTIVE

Minimise the adverse effects of contaminated sites and prevent future site contamination.

2.2.3 POLICIES

Objective 2.2.2 will be achieved by Policies 2.2.3.1 and 2.2.3.2 which recognise that providing and sharing information including active co-operation of Environment BOP and Environment Waikato with the Council along with liaison and increasing awareness of resource users, are ways to minimise adverse effects from the use of contaminated sites and to reduce the potential for future contamination of sites.

2.2.3.1 Policy:

To develop and maintain an inter-agency approach for the gathering and maintenance of accurate information on the location, likely risks, potential for adverse effects on the environment and the health and safety of the community and remediation measures undertaken with respect to contaminated sites.

Explanation

Council has statutory duties imposed on it under the Building Act 1991, the Local Government Official Information and Meetings Act 1987 and the Resource Management Act 1991 to gather, maintain and provide information in respect of contaminated sites. The responsibility for the management of contaminated sites rests with the Rotorua District Council, Environment BOP and Environment Waikato. The development of a contaminated sites database is being undertaken co-operatively by these agencies. The inclusion of database protocols will ensure that information is shared between these agencies and that the identification of contaminated sites is supported by reliable information and that information is securely held.

2.2.3.2 Policy

Ensure that as a consequence of land use change or re-development of contaminated sites, that future uses of the site are not exposed to significant risks as a result of contamination.

Explanation

Council is aware that changes in land use activities or property redevelopment can expose risks that otherwise may not have been exposed. Council proposes to initiate a range of non-regulatory methods to minimise such risks.

2.2.3.3 **Policy:**

To undertake a proactive role in reducing the potential for further contamination of sites.

Explanation

The Council is aware that by taking a proactive role in liaison with resource users, developers or protectors over existing and potential contaminated sites the adverse effects from these land use activities can be mitigated.

3 METHODS OF IMPLEMENTATION

The objectives and policies of this Part are intended to be achieved principally by applying the *Hazardous Facility Screening Procedure* to all new land use activities in all zones that store or use hazardous substances. Other additional methods of implementation focus on the provision of information and the liaison of Council with the regional councils in respect of contaminated sites in the District, the promotion of education methods and increasing Community awareness of risks associated with the use, storage, disposal or transportation of hazardous substances.

3.1 HAZARDOUS FACILITY SCREENING PROCEDURE

3.1.1 NEW FACILITIES

The Council has adopted the *Hazardous Facility Screening Procedure (Land Use Planning Guide for Hazardous Substances, Ministry for the Environment September 1999)* to assess all new land use activities with facilities storing, using or disposing of hazardous substances. The Council will require applicants for land use activities involving facilities using or storing hazardous substances, to identify any threat to the health and safety of the Community and to the environment. The Hazardous Facility Screening Procedure will determine the zone-related activity status and the degree of scrutiny that any application will be subjected to. **Appendix Y** of this District Plan provides detailed information on the Hazardous Facility Screening Procedure.

Council has adopted an approach to managing hazardous facilities that categorises the effects of substances into three groups as follows:

- **Fire/Explosion Effect Type:** - concerned with damage to property, the built environment and safety of people;

- **Human Health Effect Type:** - concerned with the wellbeing, health and safety of people; and
- **Ecosystem Effect Type:** - concerned with damage to ecosystems and natural resources and systems.

The Hazardous Facility Screening Procedure can be used to assess the likely effects of hazardous substances at all stages of a process including raw materials, production and waste.

Possible adverse effects from hazardous substances can be predicted by the particular properties of the hazardous substance and the anticipated consequences of its release into the environment. The adverse effects may include:

- Contamination of water, air and soil;
- Short and long term damage to ecosystems;
- Accumulation of persistent substances in the bodies of humans and animals resulting in chronic short or long term damage to their health;
- Acute damage to human health through exposure to substances affecting skin, mucous membranes, respiratory and digestive systems; and
- Damage to the environment, human health and property through fire and explosion events.

In general, hazardous facilities are permitted in a zone where:

- the Performance Standards for hazardous facilities can effectively control any potential adverse effects; and
- where the potential level of risk is low; and
- the health and safety of the Community or the environment will not be adversely affected. In determining this, the objectives of the particular Zone concerned and the relevant objectives of zones adjoining that Zone, along with the facility's characteristics and location on site will be taken into account.

It is important to distinguish between a **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 into the environment combined with the potential effects caused by that release.

All applications for new facilities for hazardous substances will be assessed by the Hazardous Facility Screening Procedure regardless of the size, substance(s) or processes proposed. Only those applications which exceed specific levels of risk beyond their site boundary as determined in this Part of the District Plan, are to be subjected to more detailed scrutiny or assessment and additional controls may be applied. The further scrutiny or assessment shall take account of both the probability and the effects of potential accidents involving hazardous substances

and the proposed measures to mitigate and manage such risks. The assessment of any application for a hazardous facility will focus on risk mitigation measures and emergency plans. Management and operational practices of the facility will also be assessed to identify where risks may be avoided. The granting of a resource consent will then be considered on the basis that the off-site risks presented by a hazardous facility are adequately managed.

3.1.2 **EXISTING FACILITIES**

Existing hazardous facilities will not be subject to the *Hazardous Facility Screening Procedure* unless they expand or alter their activities (refer also to R14.2). The Council will monitor these hazardous facilities through other regulatory powers. Where it is considered that an existing hazardous facility is operating at a level of risk which has an adverse effect on the environment, or on the health and safety of the Community, the Council will use its enforcement powers under the *Resource Management Act 1991* to avoid, remedy or mitigate adverse effects on the environment.

3.2 **EMERGENCY PLANS**

Council will require, where appropriate, the preparation and operation of site management and emergency plans by operators of hazardous facilities. Emergency plans set out containment, clean-up, and notification procedures to be followed in case of accidents. The Council recognises that emergency plans may be required by other legislation or by other organisations such as emergency services. In those cases the Council will be satisfied with a copy of such a plan being submitted provided that it can be demonstrated that such a plan adequately deals with containment, clean-up, and notification procedures for the hazardous facility concerned.

In deciding when an emergency plan is needed, or whether an existing emergency plan required by other legislation or organisations is adequate, the Council will consult with the relevant regional council.

3.3 **CONTAMINATED SITES**

Known contaminated sites are to be entered on a contaminated sites database which is to be held by the Council. Council in conjunction with Environment Bay of Plenty and Environment Waikato is developing a database of contaminated sites. Protocols to be followed for those accessing the database (use of or maintenance of) are also being developed and this matter is still under discussion between the parties. The joint regional-district database is likely to be adopted as the means of recording base information on contaminated sites. Where remediation of a site occurs, this will be noted on the database. Contaminated sites information will also appear on property files and released on Land Information Memoranda and Project Information Memoranda.

Any activity which seeks to remediate a particular contaminated site is a Permitted Activity. Remediation practices will be undertaken in a manner that will not lead to further degradation of the site or the surrounding area, so that where contaminated material taken from a site is properly treated and/or disposed of.

Council will require, where appropriate, the remediation of contaminated sites as a pre-requisite to the redevelopment of the site. Prior to new land use activities, subdivision or development on these sites, owners may be required to take steps to make the sites safe for its reasonably foreseeable intended use. Generally in such instances compliance with the *Australian and New Zealand Guidelines for the Assessment and Management of Contaminated Sites 1992*; *Australian and New Zealand Environmental and Conservation Council and the National Health and Medical Research Council*; and *Health and Environment Guidelines for Selected Timber Treatment Chemicals, Ministry for the Environment and Ministry of Health 1997*, will be required. A discharge consent from a regional council may also be required. In any event, for sites which exhibit contamination problems, the Council may use its enforcement powers under the *Management Act 1991* to ensure that no adverse effect on the environment occurs.

Refer to Rules relating to contaminated sites in **R14.5** of this Part of the District Plan.

3.4 LAND AND PROJECT INFORMATION MEMORANDA

Land Information Memoranda (LIM) are supplied under Section 44A of the *Local Government Official Information and Meetings Act 1987*. These relate to any land in the District, and will include information relating to each special feature or characteristic of a site, including the presence of hazardous substances which are known to the District Council but which is not apparent from the District Plan.

Project Information Memoranda (PIM) are issued under Section 31 of the *Building Act 1991*. These will include information identifying the characteristics of the land, including the likely presence of hazardous substances known to the District Council but which is not apparent from the District Plan. Such information is likely to be of relevance to the design, construction or alteration of any building on such a site.

Any remediation activities will also be detailed on both the LIM and PIM, but will not result in removal of the contaminated site notation from Council's records in respect of the site concerned for the following reasons:

- suitable standards for remediation have not been developed for particular activities;
- the history of a site's past contamination and remediation may be relevant to future users; and
- Guidelines currently used as standards for remediation of sites may be further developed or reviewed in the future. Retaining a notation in respect of a site's contamination status will facilitate comparison of remediation undertaken in accordance with a previously appropriate Guideline with that required under an equivalent new or amended Guideline.

3.5 MONITORING

Monitoring of hazardous facilities is an essential component of an integrated and proactive response by the Council to the management of hazardous facilities. The following matters in respect of hazardous facilities will be monitored:

- information on the location and layout of the facility;
- the quality and availability of plant documentation, including operating procedures;
- information about the nature and quantity of the hazardous substances stored, used and transported;
- process description and design;
- emergency planning for the facility;
- information on waste management; and
- a review of the hazards and safe guards in place.

Some responsibility for ongoing monitoring of the site rests with the landowner. A coordinated approach to monitoring by both the Council and the landowner will be encouraged.

3.6 PROMOTION AND EDUCATION

Minimising the use of hazardous substances, and ensuring that where hazardous substances are stored, used or disposed of that users understand and employ best practice methods, is one way whereby adverse effects on the environment and health and safety of the community can be avoided, remedied or mitigated.

The range of promotion and education methods include the following:

- Promotion of the *Clean Production* ethic - “reduce, reuse, recycle and recover;”
- Promotion of alternative substances and methods that present less risk to the environment and/or health and safety of the community;
- Promote industrial best practice standards and Codes of Practice;
- Promote on-site education and encouragement to produce Site Management Plans and Spill Containment Procedures.
- Work with other organisations on educational programmes (e.g. Environment BOP, Department of Health, New Zealand Chemical Industry Council, Federated Farmers).
- Provision of information about managing the risks associated with contaminated sites to existing owners and potential purchasers of properties containing contaminated sites.

4 ANTICIPATED ENVIRONMENTAL OUTCOMES

The anticipated environmental outcomes expected through the provisions of this Part include:

- Appropriate siting and management of hazardous facilities.
- Avoidance of unacceptable risk to the environment and health and safety of the Community from the storage, use and transport of hazardous substances.
- Prevention of accidents and the extent of adverse effects on the environment and health and safety of the Community due to the release of hazardous substances stored or used at hazardous facilities.
- Avoidance of environmental contamination by hazardous substances.
- An improved Community and industry awareness of risks posed by activities storing, using or transporting hazardous substances.
- The adoption of better operational practices such as *Cleaner Production* which focuses on the reduction, reuse, recycling, recovery and residual waste management of hazardous substances.

- A reduction in contaminated sites within the District and the progressive remediation of existing ones.
- An environment in which the Community's health and safety is not compromised by an unacceptable risk posed by hazardous facilities and land use activities storing, using, disposing and transporting hazardous substances.

R14 RULES

R14 ACTIVITY STATUS OF ACTIVITIES STORING, USING, DISPOSING OR TRANSPORTING HAZARDOUS SUBSTANCES, OR REMEDIATING CONTAMINATED SITES

The following Rules specify the status in each zone of this District Plan of hazardous facilities and activities under the Hazardous Facility Screening Procedure, and where a contaminated site is to be remediated (decontaminated) and/or subsequently (re)developed.

P	=	Permitted Activity
C	=	Controlled Activity
D	=	Discretionary Activity

The users of this District Plan are advised that, notwithstanding any provision in this Plan, no activity shall contravene any Rule in any relevant regional plan, or proposed regional plan. The administration of these regional plans is the responsibility of Environment BOP and Environment Waikato.

R14.1 ACTIVITIES EXEMPT FROM THE HAZARDOUS FACILITY SCREENING PROCEDURE

R14.1.1 INTRODUCTION

There are a number of activities for which assessment through the Hazardous Facility Screening Procedure is not appropriate and for which Rule **R14.2** does not apply. Such activities have another status which is indicated below.

For some activities assessment through the Hazardous Facility Screening Procedure is not appropriate because the potential effects they generate are below the trigger levels established in the Activity Status Matrix, or they are managed or controlled by other legislation. Such activities, identified in **R14.1.2**, are exempt from the Hazardous Facility Screening Procedure and are to be Permitted Activities in this Part.

A number of other activities are well managed under voluntary industry Codes of Practice and compliance with such codes has been demonstrated to avoid, remedy or mitigate risks related to the storage and use of hazardous substances on the environment and on the health and safety of the community. Such activities, identified in **R14.1.5**, are to be Controlled Activities in this Part.

There are also a number of identified activities that are of a temporary or short term duration at any one location. The current management practices of these activities present a short term risk on the environment and health and safety of the community. Such activities are to be Permitted Activities in this Part, provided they comply with the Standards for Permitted Activities as identified below in **R14.1.3** and **R14.1.4**.

R14.1.2 PERMITTED ACTIVITIES (EXEMPT)

The following activities are **exempt** from the Hazardous Facility Screening Procedure because the degree of hazard is below the scale of potential effects covered by the HFSP under **Rule R14.2** or are managed or controlled by other legislation. The activities below are deemed to be Permitted Activities:

- Storage or use of hazardous consumer products for domestic purposes.
- Storage and/or use of LPG in quantities not exceeding those listed in Table 2.1 of AS/NZS 1596:1997.
- Pole mounted transformers and street transformers for the transmission of electric power.
- Retail outlets for the sale of hazardous consumer products for domestic purposes (such as supermarkets, hardware shops, pharmacies).
- Dust explosions.
- Up to 60kg of UN Class 1 blasting explosives used as one off operations, as controlled under the Explosives Act 1957, associated regulations and the Health and Safety in Employment Act 1992.
- Facilities using genetically modified or new organisms.
- Fuel in motor vehicles, boats and small engines such as weeders, lawnmowers, chainsaws etc.
- Gas and Oil Pipelines.
- Residential Transformers holding under 500 litres of transformer oil.
- Hazardous activities not involving hazardous substances.
- Trade waste sewer facilities.
- On farm milk storage provided any spillage is prevented from entering a watercourse or waterbody, or from seeping into groundwater.
- Milk storage at the Reporoa Dairy Factory, State Highway 5, (located in the Industrial B Zone – see Planning Map 88) provided any spillage is prevented from entering a watercourse or water body, or from seeping into groundwater.

R14.1.3 PERMITTED ACTIVITY (EXEMPT) SUBJECT TO PERFORMANCE CONDITIONS

TEMPORARY MILITARY TRAINING

The use, storage or transportation of hazardous substances by any Temporary Military Training activity shall be **exempt** from the HFSP and is a Permitted Activity subject to compliance with the following performance conditions:

- (a) The use, storage or transportation of hazardous substances shall be restricted to no more than:
 - (i) 25 jerry cans (450 litres) of petrol (not including fuel in motor vehicle tanks); and
 - (ii) 25 jerry cans (450 litres) of diesel (not including fuel in motor vehicle tanks); and
 - (iii) 60kg of UN Class 1.1 Explosives; and
 - (iv) 10kg of UN Class 1.2 Explosives; and
 - (v) 20kg of UN Class 1.3 Explosives.
- (b) The storage, loading, unloading, use, handling and transportation of hazardous substances shall be conducted in a manner that prevents any spill or unintentional release of hazardous substances, from entering the stormwater drainage system or discharging into or onto land and/or water unless permitted by a resource consent.
- (c) The use and/or storage of hazardous substances shall comply with standards for permitted activities under **Rule R14.3** of this Part.

Where the storage, use or transportation of hazardous substances does not comply with the above provisions, Temporary Military Training activities shall be a Discretionary Activity and shall be assessed under **Rule R14.4.2** of this Part.

Conditions as identified in **R14.4.2**, may be imposed by Council to ensure that the adverse effects of Temporary Military Training activities on the environment and health and safety of the community, can be avoided, remedied or mitigated.

R14.1.4 PERMITTED ACTIVITY (EXEMPT) SUBJECT TO STANDARDS FOR PERMITTED ACTIVITIES

BULK EARTHWORKS AND ROAD CONSTRUCTION ACTIVITIES

The storage or use of hazardous substances in conjunction with bulk earthworks and road construction activities (eg road construction and improvement

activities) is a Permitted Activity subject to compliance with the Standards for Permitted Activities under Rule **R14.3** of this Part. Except that R14.3.1(1) shall not apply to vehicles such as mobile trailer fuel tanks, asphalt trucks, bitumen spray trucks and bulk tanker trailers, where best management practices during the operation of these vehicles shall be employed.

If bulk earthworks and road construction activities do not comply with any or one of the Standards for Permitted Activities under Rule **R14.3**, such activities shall be a Restricted Discretionary Activity and shall be assessed under **Rule R14.4.2** of this Part.

Conditions as identified in **R14.4.2**, may be imposed by Council to ensure that the adverse effects of bulk earthworks and road construction activities on the environment or health and safety of the community, can be avoided, remedied or mitigated.

R14.1.5 CONTROLLED ACTIVITY

STORAGE AND/OR RETAILING OF CNG, LPG, PETROLEUM AND DIESEL FACILITIES

The activities listed below are **exempt** from the Hazardous Facility Screening Procedure as there are appropriate Codes of Practice, which if complied with, reduce the risk ratios of these activities to below the risk ratios provided for by applying the HFSP under **Rule R14.2**.

While the effects and risk of storage and/or retail facilities for CNG, LPG, petrol and diesel can be adequately managed by a range of accepted existing codes of practice, these codes of practices are not embedded in legislation and are, therefore, voluntary. It is necessary to ensure that where accepted codes are not complied with, the Council reserves the ability to assess that the risks posed by these activities on people, property and the environment are effectively avoided, remedied or mitigated. Risks can arise from LPG and CNG storage and handling and from the design, installation and operation of underground petroleum and diesel storage facilities.

The following are Controlled Activities and shall be assessed in relation to matters specified in (a) and (b) below:

- Storage and/or dispensing facilities for CNG outlets providing CNG storage up to 1,000m³ storage in cascades (AS/NZS 1596 : 1997 Storage and Handling of LP Gas)
- Storage and/or dispensing facilities for LPG outlets providing LPG storage up to 12,000 litre w/c in a single above ground storage vessel or 48,750 litre w/c in an underground storage vessel (AS/NZS 1596 : 1997 Storage and Handling of LP Gas)
- Storage and/or dispensing (facilities) for petroleum products at an outlet with up to 150,000 litres in underground storage with 50,000 litres

maximum capacity for any individual tank. (Code of Practice for the Design, Installation and Operation of Underground Petroleum Systems, published by the Department of Labour – OSH)

- Storage and /or dispensing (facilities) of diesel fuel outlets in any above ground or underground tank with 50,000 litres maximum capacity. (Code of Practice for the Design, Installation and Operation of Underground Petroleum Systems, published by the Department of Labour – OSH, or Code of Practice for Storage Tanks and Ancillary Equipment, published by the Department of Labour – OSH)
- Storage and/or dispensing facilities for Jet A1 fuel and/or Av Gas up to 200,000 litres in above ground storage tanks with 50,000 litres maximum capacity for any individual tank in the Airport Zone. (Above Ground Bulk Tank Containment Systems - Ministry for the Environment)
- Storage and/or dispensing facilities for Jet A1 fuel and/or Av Gas up to 140,000 litres in underground storage tanks with 50,000 litres maximum capacity for any individual tank in the Airport Zone. (Above Ground Bulk Tank Containment Systems - Ministry for the Environment)
- Storage of up to 12,000 litres w/c of LPG for use in “industrial fuel burning equipment.” (AS/NZS 1596:1997 Storage and Handling of LP Gas)

(Note: Industrial fuel-burning equipment is deemed to be equipment that is used in an industrial or trade premise as defined by Section 2(1) of the Resource Management Act 1991, and by any school, hospital, rest home, institution or other public facility.)

Matters Over Which Council Has Reserved Control:

- (a) The extent to which the application complies with the relevant standard and/or Code of Practice and any replacement of that standard or code (the current relevant standard or code is listed after each controlled activity above). Where applications for storage and/or dispensing facilities for CNG, LPG, petrol and diesel are made without reference to any of the above codes, an applicant shall satisfy the Council that matters addressed in the relevant codes are addressed in the application. The Council may impose conditions setting the requirements of compliance with an appropriate code of practice(s) as conditions of a consent; and
- (b) The extent to which the application complies with the relevant standards for Permitted Activities in Rule R14.3.

R14.1.6 CONTROLLED ACTIVITY

HAZARDOUS SUBSTANCES USED IN TEACHING AND RESEARCH LABORATORIES

The storage and use of hazardous substances by teaching and research laboratories is a Controlled Activity as they may in certain circumstances cause

adverse effects on people, property and the environment in which they are located.

While the effects and risks of the storage and use of hazardous substances by teaching and research laboratories can be adequately managed by a range of accepted existing codes of practice, these Codes of Practices are not embedded in legislation and are, therefore, voluntary. It is necessary to ensure that where accepted codes are not complied with, the Council reserves the ability to assess that the risks posed by these activities on people, property and the environment are effectively avoided, remedied or mitigated.

Compliance with the Codes of Practices as identified below, and with the Standards for Permitted Activities under Rule **R14.3** of this Part for matters not covered by the relevant Codes of Practice, will constitute an acceptable means to satisfy the matters over which the Council reserves its control in relation to the effects and risk of the storage and use of hazardous substances by teaching and research laboratories.

The following is a Controlled Activity and shall be assessed in relation to the matters specified in (a) and (b) below:

- Storage (not including bulk hazardous substance storage facilities), handling, use, transport and disposal of hazardous substances by teaching, research and hospital laboratories.
 - * AS 2982-1987 - Laboratory Construction
 - * AS 2243.1-1990 - Safety in Laboratories Part 1: General
 - * AS 2243.2-1990 - Safety in Laboratories Part 2: Safety in Laboratories
 - * AS 2243.3-1990 - Safety in Laboratories Part 3: Microbiology
 - * AS 2243.5-1990 - Safety in Laboratories Part 5: Non-Ionising Radiation
 - * AS 2243.6-1990 - Safety in Laboratories Part 6: Mechanical Aspects
 - * AS 2243.7 1990 - Safety in Laboratories Part 7: Recirculating Fume Cabinets
 - * AS 2243.10-1990 - Safety in Laboratories Part 10: Storage of Chemicals

Matters Over Which Council Has Reserved Control

- (a) The extent to which an application complies with the relevant standard and/or Code of Practice and any replacement of that standard or code (the current relevant standard or code is listed after the controlled activity above). Where applications for teaching and research laboratories are made without reference to the above codes, an applicant shall satisfy the Council that matters addressed in the relevant codes are addressed in the application. The Council may impose conditions setting the requirements of compliance with the appropriate codes of practices as conditions of a consent; and
- (b) The extent to which an application complies with the relevant standards for Permitted Activities in Rule R14.3.

R14.1.7 CONTROLLED ACTIVITY

STORAGE AND USE OF ON-FARM, IN-FOREST & ON-ORCHARD AGRICHEMICALS

The storage and use of hazardous substances involved in farm, forest and orchard activities (agrichemicals) are a Controlled Activity, as they may in certain circumstances cause adverse effects on people, property and the environment in which they are located.

While the effects and risks of the storage and use of agrichemicals can be adequately managed by a range of accepted existing codes of practice, these Codes of Practices are not embedded in legislation and are, therefore, voluntary. It is necessary to ensure that where accepted codes are not complied with, the Council reserves the ability to assess that the risks posed by these activities on people, property and the environment are effectively avoided, remedied or mitigated.

Compliance with the Codes of Practices as identified below, and with the Standards for Permitted Activities under Rule **R14.3** of this Part for matters not covered by the relevant Codes of Practice, will constitute an acceptable means to satisfy the matters over which the Council reserves its control in relation to the effects and risk of the storage and use of agrichemicals.

The following is a Controlled Activity and shall be assessed in relation to the matters specified in (a) and (b) below:

- Storage, handling and use of agrichemicals either on-farm, in-forest or on-orchard (NZ Standard Code of Practice for the Management of Agrichemical NZS 8409 : 1999 'Growsafe'.)

Matters Over Which Council Has Reserved Control:

- (a) The extent to which an application complies with the relevant standard and/or Code of Practice and any replacement of that standard or code (the current relevant standard or code is listed after the controlled activity above). Where applications for the storage and use of agrichemicals are made without reference to the above codes, an applicant shall satisfy the Council that matters addressed in the relevant codes are addressed in the application. The Council may impose conditions setting the requirements of compliance with the appropriate codes of practices as conditions of a consent; and
- (b) The extent to which an application complies with the relevant standards for Permitted Activities in Rule R14.3.

R14.2 DETERMINATION OF ACTIVITY STATUS UNDER THE HAZARDOUS FACILITY SCREENING PROCEDURE

All new applications for hazardous facilities shall be assessed in accordance with the *Hazardous Facility Screening Procedure* in **Appendix Y** to establish its Effects Ratio. The *Activity Status Matrix Table* in **R14.2.1** lists the different Effects Ratio trigger levels for each Zone.

Existing hazardous facilities are not subject to the HFSP where Section 10 or 10A of the *Resource Management Act 1991* apply. As a guide to determining whether any existing hazardous facility which substantially alters its operation has effects that are no longer the same or similar in character, intensity and scale to those that existed previously, the following matters will be considered:

- Any increase in the effects ratio from one activity to a higher one in **R14.2.1**; and
- Whether the activity complies with the standards/conditions for Permitted Activities in **R14.3**.

R14.2.1 EFFECTS RATIO TRIGGERS FOR PERMITTED, AND DISCRETIONARY ACTIVITIES (Refer to Appendix Y for process to determine Activity Status)

ACTIVITY STATUS MATRIX FOR ZONES		
ZONE	PERMITTED ACTIVITY ¹	DISCRETIONARY ACTIVITY
Industrial C	$\leq 1^2$	>1
Industrial B Rural A, B Airport	$\leq 0.75^2$	> 0.75
Industrial A Commercial G	≤ 0.5	> 0.5
Transitional Development Commercial A, B, C, F, H Reserve A, B Airport Protection Road	≤ 0.2	> 0.2
Commercial D Rural D, F	≤ 0.1	> 0.1
Resort A, B, C, D Water A	≤ 0.05	> 0.05
Residential A, B, C, D Rural B1, C, E, G Water B	≤ 0.02	> 0.02
Lakes A Zone	<i>Refer to Rule R14.2.1 of Part Fourteen that is part of Rule 1.1 of the Lakes A Zone.</i>	

(NOTE : Refer to notes 1 & 2.)

¹ Any activity specified as a Permitted Activity which does not comply with any one or more of the Standards for Permitted Activities under **R14.3** shall be a Discretionary Activity.

² Where a hazardous facility or sub-facility is located:

- i) on part of a site in the Rural A or B Zone, the Industrial A, B or C Zone or the Airport Zone; and
- ii) is immediately within 20 metres of the boundary of the Residential A, B, C or D Zone, or a Rural C, D, E or G Zone;

it is a Discretionary Activity unless the Effects Ratio of the hazardous facility is shown to meet the Permitted Activity level of the immediately adjoining Zone(s).

(Note: This rule does not apply where the adjoining zone is separated by a road or other feature that secures a 20 metre separation.)

R14.3 STANDARDS FOR PERMITTED ACTIVITIES

- Any activity which is determined to be a Permitted Activity under **R14.2** must comply with the Standards set out below in **R14.3**.

Any activity specified as a Permitted Activity which does not comply with any one or more of the Standards for Permitted Activities under **R14.3** shall be a Discretionary Activity with Council restricting the exercise of its discretion to the matter of non-compliance with the relevant standard.

(NOTE : Any activity must also comply with the rules and performance standards elsewhere in the District Plan.)

R14.3.1 SITE DESIGN AND MANAGEMENT

- (1) Other than the storage and dispensing of LPG carried out in accordance with AS/NZ 1596 : 1997, Any site or part(s) of a site dedicated to the manufacturing, mixing, packaging, above ground storage, loading, unloading, using or handling of hazardous substances shall be protected by a spill containment system.

The spill containment system shall include at least the following:

- be constructed from impervious materials that are resistant to the hazardous substances involved; and
- be able to contain 125% of the volume of all containers (e.g. drums, tanks) containing hazardous substances within the spill containment area, or if the containment area is covered then the volume will be 100%, or where drums or other containers are used, the spill containment system shall be able to contain the maximum volume of substances stored; and
- be 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:
 - a) prevented from discharging into or onto land or groundwater, any waterbody, or the potable water supply unless permitted by a Regional Plan or regional resource consent; and
 - b) prevented from entering the stormwater drainage system unless permitted by the Network Utility Operator, or by a Regional Plan or regional resource consent.

(Note: Discharge to the Council stormwater drainage system may require a resource consent from the appropriate Regional Council.)

- (2) Other than the storage and dispensing of LPG carried out in accordance with AS/NZ 1596 : 1997, underground storage tanks shall be designed and constructed to contain any leakage. A leak detection system shall be integrated into the design of the tank and backed up with an effective monitoring programme.
- (3) All stormwater grates shall be clearly marked to ensure that hazardous substances are not inadvertently released into the stormwater system.
- (4) The 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 into the stormwater system, into a sewer, into or onto land, into groundwater or any waterbody, or to a potable water supply unless a resource consent, Trade Waste Consent or building consent allows otherwise.

Note: *The Site Design and Management Standards are in addition to, and not in substitution for the Site and Zone Standards of the relevant zone, and other legislation that deals with hazardous substances, including the Hazardous Substances and New Organisms Act 1996, Medicines Act 1981, Health and Safety in Employment Act 1992, or any subsequent legislation and any conditions set by the National Radiation Laboratory.*

R14.3.2 WASTE MANAGEMENT

- (1) Any waste including trade wastes or waste containing hazardous substances shall be managed so they are not:
 - (a) discharged on to land or into any stormwater drain or discharged into sewers serviced by the Rotorua Wastewater Treatment Plant unless authorised under Council's *Trade Waste Consent*, or contrary to Part Fifteen of this District Plan; or
 - (b) discharged into or onto land, groundwater, any water body, or potable water supply unless a resource consent from a Regional Council allows otherwise.
- (2) The storage of any waste or waste containing hazardous substances shall comply with **R14.3.1** of this Part of the District Plan at all times.
- (3) The storage of any waste containing hazardous substance shall be in a manner that prevents:
 - (a) the exposure to ignition sources;
 - (b) the corrosion or other alteration of the containers used for the storage of waste;
 - (c) the unintentional release of the waste.

- (4) Wastes containing hazardous substances shall be disposed of within the Rotorua District only in facilities formally approved by the Rotorua District Council, unless covered by a resource consent issued by a Regional Council.

R14.3.3 SIGNAGE

All hazardous facilities shall be sign posted to indicate the nature of the substance stored, used or otherwise handled.

R14.3.4 FIRE SAFETY

All hazardous facilities where flammable hazardous substances are either stored or used shall have adequate fire safety equipment in place.

R14.3.5 EMERGENCY AND EVACUATION PLANS

All hazardous facilities shall have an emergency and evacuation plan in place which deals with possible on-site accidents involving hazardous substances.

R14.3.6 TRANSPORTATION OF HAZARDOUS SUBSTANCES

The transportation of hazardous substances is a Permitted Activity within the District and is controlled by other agencies under other legislation and regulations.

R14.4 DISCRETIONARY ACTIVITIES: ASSESSMENT CRITERIA AND CONDITIONS

R14.4.1 INTRODUCTION

Activities storing or using hazardous substances which under **R14.1**, **R14.2** and **R14.3** do not meet the Permitted Activity standards or are specified as Discretionary Activities are those which may however be appropriate on some sites in the District. These activities can, however, have effects or pose risks which require particular assessment. Council may decline an application for such an activity or grant a resource consent subject to conditions that ensure that the activity does not pose an adverse risk on the environment or the health and safety

of the Community, and that the relevant Objectives and Policies of this Part and the relevant Objectives and Policies of the Zone where the activity is proposed to be located and any adjoining Zones, are promoted.

Where a hazardous facility is proposed to be located within the 20 metre wide buffer as set out in **Note 2** in **R14.2.1**, the relevant objectives and policies of the adjoining zone will be taken into account in resource consent applications for Discretionary Activities to ensure that the objectives of the adjoining zone are promoted.

An application for a resource consent for a Discretionary Activity may be considered, in cases where the exercise of the Council's discretion in respect of non-compliance with the Site Standards under **R14.3** is concerned, without the need to obtain the written approval of affected persons and need not be notified in accordance with Section 93 of the *Resource Management Act 1991*, unless the Council considers that special circumstances exist in relation to such an application.

The criteria for assessing applications for Discretionary Activities are set out in **R14.4.2**.

The provisions of **4, 5, 6 and 7** of **Part Two** of this District Plan will also apply.

R14.4.2 ASSESSMENT CRITERIA AND CONDITIONS FOR DISCRETIONARY ACTIVITIES

An application for a Discretionary Activity under the Hazardous Facility Screening Process or for non compliance with Permitted Activity standards, shall be accompanied by an assessment of the environmental effects pursuant to the Fourth Schedule of the *Resource Management Act 1991*. This assessment of the environmental effects shall provide detail of the scale and significance of the actual or potential adverse effects (particularly risk) of the project.

In considering whether to decline or grant a Discretionary Activity application (with or without conditions), all applications will be assessed by Council in terms of the following matters:

(1) Risk Assessment

- Whether the proposal is acceptable after a risk assessment has been carried out (i.e. the extent to which any risks associated with the proposal are able to be avoided, remedied or mitigated), as described in Section **R14.4.3** of this Part of the District Plan.
- The level of risk associated with the environment in which the facility is proposed to be located (e.g. instability from geothermal activity) and the manner in which those risks have been accommodated.
- Are there cumulative risks presented to the environment as a result of other neighbouring facilities.

(2) **Management Practices**

- Whether proposed site management systems are appropriate. Consideration will be given to spill contingency plans, health and safety systems, emergency procedures, stormwater treatment and disposal procedures for hazardous wastes, fire safety, transportation, monitoring and maintenance procedures.
- Whether monitoring and maintenance schedules are appropriate to identify systems failures in order that action can be taken to avoid, remedy or mitigate any adverse effects.

(3) **Alternatives**

- 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 have significant adverse effects on the environment.

(4) **District Plan Provisions**

- The extent to which the proposal complies with the objectives, policies and performance standards of:
 - * Part Fourteen;
 - * the zone in which the facility is proposed to be located; and
 - * the adjoining zone to the facility (where this is located within 20 metres of the adjoining zone).

Consent to an application may be granted by Council, with conditions attached, to address the following matters:

- Hazard and exposure pathways; and
- The sensitivity of the surrounding human, natural and physical environment; and
- The sensitivity of the facility in relation to unstable environments (e.g. changes in geothermal activities); and
- Measures to protect the surrounding natural and physical resources (e.g. aquifers, streams, wetlands, habitats, lakes); and
- The separation distances from adjoining land use activities and people potentially at risk from the hazardous facility; and
- Managing risks to adjoining property; and
- Cumulative effects of hazardous facilities in the area; and
- Site drainage and off-site infrastructure (e.g. stormwater and sewer types and capacities); and
- Quantities and uses of hazardous substances; and
- Transfer/transport of hazardous substances on and off the site; and
- Site layout and design; and
- Spill contingency and emergency planning, monitoring and maintenance; and
- Disposal of wastes containing hazardous substances.

R14.4.3 RISK ASSESSMENT

A risk assessment, identifying any risk to the environment or health and safety of the community shall be required. The level of detail required will depend on the scale and intensity of the effects of the proposed land use activity or facility. A risk assessment shall include an assessment of the following matters:

- Separation distances to people sensitive activities, especially land use activities such as schools, rest homes, hospitals, marae and shopping centres; and
- The location of the land use activity or facility in relation to the aquifers, streams or lakes; and
- The nature of the site's subsoil and/or geology; and
- The distance to sensitive habitats in the area or water catchments; and
- The cumulative and/or synergistic effects, biotoxicity, and bioaccumulation of hazardous substances used or stored; and
- Fire safety and fire water management; and
- The extent to which the adherence to health and safety, code of practice or environmental management systems is relevant to the particular circumstances of the application or will lead to improved environmental outcomes. Where appropriate, the Council recommends the use of a national and/or international standard, such as the NZCIC Responsible Care Programme, the ISO 9000 system, the ISO 14000 system, the ISRS system and the BS 7750 system. The Council will give consideration to any other alternative site management system which will achieve the same intent of any of the above systems; and
- Spill contingency and emergency planning, monitoring and maintenance schedules; and
- Site drainage and off-site infrastructure (e.g. stormwater, sewer type and capacity); and
- The level of risk associated with the transportation of hazardous substances, both for the roading network and for the amenity and environment through which the transport route concerned passes.

R14.5 CONTAMINATED SITES

R14.5.1 REMEDIATION OF A CONTAMINATED SITE

Any remediation of a contaminated site that is authorised by a relevant regional rule or regional resource consent is a permitted activity in all zones within the district.

Any remediation of a contaminated site that is not so authorised is a discretionary activity in all zones within the district.

R14.6 RADIOACTIVE MATERIAL CONSENTS

Notwithstanding any other rules in this Part of the District Plan, the following shall apply to radioactive materials:

- 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.
- Any use or storage of radioactive material with an activity in excess of that specified as an exempt activity in the Radiation Protection Regulations 1982 and less than 1,000 terabecquerel is a Discretionary Activity.
- Any facility using radioactive material with an activity in excess of 1,000 terabecquerel (1×10^{15}) is Prohibited Activity.

Radioactive material in smoke detectors is exempt from the requirements of these activities.

Explanation

Radioactivity has been excluded from the preliminary risk assessment procedures for the following reasons:

- *The type and degree of risk posed by radioactive material is different from and additional to that of other chemical compounds; and*
- *The storage, use, or transport of radioactive material is controlled and licensed by the Ministry of Health through the National Radiation Laboratory.*

However, while the licensing of uses is the responsibility of Central Government, the Council will still control the location of these activities in order to ensure the protection of adjoining landowners.

R14.7 TRADE WASTES

Notwithstanding any provisions in this Part, the discharge of liquid and solid Trade Wastes onto land or into a sewer serviced by the Rotorua Wastewater Treatment Plant, or to a stormwater drain must comply with Council's *Trade Waste Consent (liquid waste) or Sanitary Landfill Bylaw (solid waste)*.

R14.8 DEFINITIONS

Technical definitions of relevance in interpreting this Part and Appendices Y and Z of Part Eighteen of this District Plan, are contained in Section 2.0 of Part Nineteen Definitions.