

IN THE MATTER of the Resource Management Act 1991

AND

IN THE MATTER of application CRC190445 by the Christchurch City Council for a comprehensive resource consent to discharge stormwater from within the Christchurch City area and Banks Peninsula settlements on or into land, into water and into coastal environments

**LEGAL SUBMISSIONS ON BEHALF OF Z ENERGY LIMITED, BP OIL NZ LIMITED AND
MOBIL OIL NZ LIMITED (*THE OIL COMPANIES*)**

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SUMMARY

- 1 The Oil Companies have significant experience of the pros and cons of the existing catchment-based consents regime. They support a shift from the status quo to the holistic approach implied by the comprehensive consents applied for. This reflects “integrated management”.
- 2 The existing regime generates anomalies, given the tendency of both City and Regional Council to categorise petroleum industry sites as *prima facie* “high risk”. That categorisation imposes regulatory cost on the Oil Companies, but is not justified by the best practice management of hydrocarbons (and other contaminants) by service stations (and other sites) owned and managed by the Oil Companies. Inefficiencies are compounded by overlapping controls imposed under Council Bylaws¹ and regional plan rules.²
- 3 The Oil Companies therefore seek certainty of treatment, both pre and post-2025, under the comprehensive CSNDC consent. Certainty enables medium and long term planning, including investment decisions for existing infrastructure, and upgrades or re-development of existing as well as future infrastructure. In principle there is no reason why petroleum industry infrastructure cannot receive the benefit of Council’s comprehensive consent now, rather than being excluded until at least 2025. Risks associated with hydrocarbon discharge are well understood and appropriately managed under MfE Guidelines, established in 1998 to provide a national framework for water discharges from petroleum industry sites.³
- 4 The Oil Companies seek amendments to proposed consent conditions for greater certainty of treatment under the new comprehensive consent.⁴ Certainty is lacking, given the discretion reserved to Council as consent holder in relation to high risk sites. Proposed conditions 2 & 3 arguably create a veto power for Council, which can decide whether individual sites are high risk and, if so, whether they receive the benefit of the umbrella global consent both pre- and post-2025. Consent conditions can be amended by:

¹ Water Supply, Wastewater and Stormwater Bylaw 2014

² The Land and Water Regional Plan

³ Environmental Guidelines for Water Discharges from Petroleum Industry Sites in New Zealand (**MfE Guidelines**)

⁴ Comprehensive stormwater network discharge consent (CSNDC)

- enabling existing service stations and other petroleum sites to rely on the comprehensive consent now, rather than being excluded under a default grandparenting regime up to, and potentially beyond, 2025;
- amend or delete consent holder veto powers in relation to high risk sites under conditions 2 & 3, post 2025;
- recognising compliance with MfE guidelines to confirm on-site management of hydrocarbons is not high risk;
- recommended changes to conditions identified by Mr Laurenson, including non-statutory methods for source control.

5 These submissions address:

- MfE Guidelines
- Applicant rebuttal
- Conditions 2 & 3
- Witnesses
- Relief

MfE Guidelines

6 Petroleum facilities are required to actively manage the impacts of emissions and wastes on water discharges from petroleum industry sites, ranging from bulk storage to retail service stations. The MfE Guidelines provide national guidance to regional councils to allow consistent assessment and management of these discharges:

1.1 The Purpose of these Guidelines

The Environmental Guidelines for Water Discharges from Petroleum Industry Sites in New Zealand offer guidance on specific measures which can be taken by the owners and managers of such sites to ensure that water discharges will not cause significant adverse effects on the environment.

The purpose of the Guidelines is to assist in the sustainable management of water resources by ensuring that water discharges from petroleum industry sites meet the quality objectives laid down in regional policy statements and plans. This is achieved by ensuring that such water discharges are not contaminated by petroleum products but that these are intercepted and managed by control systems which provide appropriate levels of protection for people, property, and the environment.

- 7 The guidelines relevantly state that they are intended to remove regulatory uncertainty:

1.2 The Scope of the Guidelines

The Guidelines are intended to assist in the management of the impacts of emissions and wastes on water discharges from petroleum industry sites, as shown in Figure 1.1. They deal with sites at which the principal products stored are gasoline, kerosene, diesel, lubricating oil and fuel oil.

...In designing systems to protect the external receiving water environments adjacent to petroleum industry sites, the aim is to separate catchment areas on the site which are not likely to be contaminated by oil from those which are potentially contaminated by oil (for example, around fill points) and to make separate provision for the handling of industrial effluents such as those from vehicle washes.

The Guidelines give detailed advice on the design of new facilities and facilities which are being substantially upgraded, i.e., those sites where major site engineering works are being undertaken so as to allow all catchments to be segregated and engineering controls to be installed. However, following the procedures within the Guidelines will assist all sites, irrespective of whether they are new, redeveloped, or unchanged, in meeting their obligations under the Resource Management Act.

- 8 Both Mr Sunich and Mr Laurenson consider that in practice, the vast majority of petroleum industry sites are not high risk as they comply with the MfE Guidelines and their methods for best practice stormwater management. This combines avoidance of contaminants in the first instance. Where the avoidance of discharges cannot be achieved, good onsite management practices remain the primary method of minimising the discharge of environmentally hazardous substances. Balance areas on site (such as service stations) represent no greater risk for discharge of zinc and copper than other paved surfaces used by vehicles, such as carparks; and cannot justify “high risk” status.
- 9 The MfE national framework confirms that a bespoke approach to petroleum industry sites is appropriate under the comprehensive CSNDC consent. Industry-specific treatment is justified given that:
- A range of bulk fuel storage facilities are regionally significant infrastructure under the RPS;
 - There is a single nationally recognised MfE Guideline relating to management of water discharges from petroleum industry sites;
 - Petroleum facilities are a substantial subset of industrial dischargers, with more than 50 individual sites within Council’s area;
 - The MfE industry guideline is widely applied, throughout NZ.

- Chapter E33 to the Auckland Unitary Plan provides a useful template for motor vehicle service facilities, identified as “always moderate risk” when compliant with the MfE Guidelines.

Applicant rebuttal

10 In rebuttal Brian Norton says that Council will rely on the Bylaw and industrial Site Audit process to set site specific standards for industrial sites. This reflects a discretionary approach to implementing the comprehensive consent.⁵ The epitome of uncertainty (and Council officer discretion) is conveyed by Mr Norton at [17] and [20] where he states:

“[17]..I agree that some Oil Company sites may not fall into the category of “unacceptably high risk”. Others may, however.”

“[20] ..If the Council were to **consider**, for example, a new discharge application from a petrol station, and **it considered** the site was going to be managed in such a way that it **could be considered** a ‘low risk’, the Council **may** choose to issue a written approval for discharge under the Bylaw...” [emphasis added]

11 This is in response to Mr Sunich’s correct assertion that Oil Company sites that operate compliant systems do not present high risk. Mr Norton appears to challenge the technical science underlying the MfE Guidelines, stating that:

“[16] ..I therefore consider that the compliance with the Guideline alone will not guarantee that the discharge will not affect the ability of the Council to improve the quality of its stormwater discharges (a primary objective of the consent).”

12 This approach, seeking a “guarantee”, appears overly conservative or precautionary, and is not reflective of the widespread adoption of the guidelines in other regional plans, referenced by Mr Laurenson. This is reinforced by Mr Norton’s subsequent evidence. It is “not necessarily” the case that Oil Companies will require new stormwater consents for re-development or expiry pre-2025:

[25] ..I do not **necessarily** consider this to be the case, as an assessment of the site **would have to** conclude the site poses an “unacceptably high risk” to be excluded under Condition 2(a). In paragraph 17 above, I have stated that I do not consider all Oil Company sites would **necessarily** fall into this category.”

⁵ Bylaws arguably should focus on protection and maintenance of infrastructure, with RMA consents focused on management of effects to the environment.

- 13 The conditionality of Mr Norton’s evidence confirms what Oil Companies already know about the existing consent regime. They will have to apply for approvals and follow a consenting process to find out whether a consent is required or not. This continues the anomalous approach of the existing discretionary regime. ‘
- 14 In rebuttal Jane West says that the risk matrix under condition 3 “..will provide more certainty to dischargers from industrial sites, and the requirements of them as part of authorisation under this consent post-2025.”⁶ Again this reinforces the absence of certainty pre-2025.
- 15 Ms West’s justification for not having bespoke conditions relating to the petroleum industry relies on Council adopting a “comprehensive package covering all facets of stormwater management..”⁷ It is not a sound reason for rejecting industry-specific guidelines when these exist at a national level. The general should give way to the specific; especially given that Oil Companies represent a significant subset of industry dischargers. By Mr Laurenson’s count, more than 50 sites are affected by the proposed comprehensive consent.

Proposed conditions 2 & 3

- 16 The veto approach is reflected in conditions 2 & 3 (Applicant’s 5 November 2018 version) which relevantly state:

[2] There shall be no discharge to land or surface water from the following unless expressly authorised by [CRC] and [CCC]:

(a) Any site or development area..considered by [CCC] to pose an unacceptably high risk of surface water or contamination..”

[3] Discharge into the [CCC] stormwater network from the sites excluded by Condition 2 are authorised under this consent on 1 January 2025, or when current discharge permits expire or are surrendered for those sites, whichever is the latest, unless through the transitional arrangements set out below, or through the audits described in condition 41, the consent holder determines that the site poses an unacceptably high risk of surface water or contamination...”

- 17 The consent condition wording is unorthodox, because we don’t know to what extent activities are covered or not covered by the consent (both pre- and post-2025). This creates arguable validity, as well as merits, issues:

⁶ Jane West rebuttal at [25]

⁷ Jane West rebuttal at [27]

- (a) 3rd parties (the Oil Companies) cannot say with certainty whether they are covered by the comprehensive consent, absent separate exercise of discretion by the consent holder. Future exercise of that discretion depends on a range of future actions that go beyond technical certification. “High risk” is not defined, and depends on future definition, consideration and assessment by the consent holder on an individual site basis;
- (b) The position is inherently uncertain because it depends on future exercise of discretion by the consent holder. The regulatory authority (i.e. the regional council) is in the same position. Query how it can enforce that part of condition 3 when it is reliant on a future decision-making process by the consent holder relating to definition and assessment of high risk. Rebuttal evidence from Council has reinforced, rather than reduced, this concern;
- (c) On the merits, it is arguably contrary to policy 4.16A of the Land and Water Regional plan. This is partly recognised by Jane West in primary and rebuttal, when she notes that exclusion post-2025 may not reflect the intent of Policy 4.16A;⁸
- (d) There is arguable conflation between Council’s ability to refuse access to public stormwater infrastructure under the LGA and bylaws. The ability to reject discharges that are “unacceptably high risk” should be excluded from the RMA / comprehensive CSNDC consent side of the equation.

Witnesses & Relief

18 The above concerns are addressed in detail in the technical evidence of Trent Sunich and planning evidence by Mark Laurenson. Both experts recommend that you approve the proposed consents subject to amendments to address the reasonable concerns raised by the Oil Companies. Relevant amendments are identified by Mark Laurenson in evidence. The Oil Companies submit that you should approve the comprehensive consent subject to these amendments, in order to comply with the relevant statutory framework.

⁸ Jane West primary evidence at [258]:

“The **Officers Report** [paragraph 845] discusses the potential need for Council to have the ability to continue to exclude some ‘high risk’ sites in certain circumstances. I have already discussed my opinion that although this doesn’t seem to reflect the intent of Policy 4.16A, I agree that it may be beneficial, and this can be agreed between Council and Environment Canterbury through the process described in **Condition 3.**”

Dated this 13th day of November 2018

A handwritten signature in black ink, appearing to be 'Rob Enright', written in a cursive style.

Rob Enright
Counsel for the Oil Companies

E33. Industrial and trade activities

E33.1. Background

Industrial and trade activities involve the use, handling and storage of environmentally hazardous substances as part of their production and operation. Unless these activities are appropriately managed, hazardous substances can be discharged from the site, as contaminants, onto land or into rivers and streams, groundwater systems and coastal waters. Appropriate management includes:

- disposal as trade waste to the wastewater network;
- collection for disposal or recycling to an appropriate facility;
- treatment onsite prior to discharge to the receiving environment; and
- adoption of appropriate industry standards, site practices, operating procedures and plans.

It is the overriding purpose of the land use provisions to avoid the discharge of contaminants in the first instance. Where the avoidance of discharges cannot be achieved, good onsite management practices remain the primary method of minimising the discharge of environmentally hazardous substances

E33.2. Objective [rcp/rp]

- (1) Industrial and trade activities are managed to avoid adverse effects on land and water from environmentally hazardous substances and discharge of contaminants, or to minimise adverse effects where it is not reasonably practicable to avoid them.

E33.3. Policies [rcp/rp]

- (1) Manage the use of land for industrial or trade activities to prevent or minimise any adverse effects of storage, use or disposal of environmentally hazardous substances.
- (2) Require industrial or trade activities to have, where reasonably practicable, onsite management systems, processes, containment, treatment, or disposal by lawful means.
- (3) Require measures to be implemented, where contaminants cannot be disposed as trade waste to the wastewater network or contained on site, to minimise adverse effects on land and water including:
 - (a) reducing contaminant volumes and concentrations as far as practicable; and
 - (b) applying measures, including treatment, management procedures, monitoring, controls, or offsite disposal, having regard to the nature of the discharge and the sensitivity of the receiving environment.

E33.4. Activity table

Table E33.4.1 specifies the activity status of use of land for industrial or trade activities pursuant to section 9(2) of the Resource Management Act 1991. It also specifies the activity status of the use of a structure in the coastal marine area for industrial or trade activities pursuant to section 12(3) of the Resource Management Act 1991.

The industrial or trade activity land use and discharge rules address stormwater quality aspects of the discharge of contaminants from an industrial or trade activity area. The rules should be read in conjunction with E31 Hazardous substances, E8 Stormwater – Discharge and diversion and relevant zone rules.

For the purposes of this section ‘existing’ means existing at the date of notification of the Proposed Auckland Unitary Plan, being 30 September 2013.

Table E33.4.1 Activity Table – Use of land for an industrial or trade activity [rcp/dp]

Activity		Activity status
Consented industrial or trade activities		
(A1)	Use of land for an industrial or trade activity that is authorised by a resource consent to discharge contaminants	P
(A2)	Use of land for an industrial or trade activity that is listed in Appendix 22 Consented existing high risk industrial or trade activities and for which the specified consent(s) has not expired or may be exercised under section 124(1) and (3) of the Resource Management Act 1991	P
Unlisted industrial or trade activities		
(A3)	Use of land for an existing or new industrial or trade activity not listed in Table E33.4.3	P
Low risk industrial or trade activities		
(A4)	Use of land for an existing or new industrial or trade activity listed as low risk in Table E33.4.3	P
Moderate risk industrial or trade activities		
(A5)	Use of land for an Existing or new industrial or trade activity listed as moderate in Table E33.4.3	P
High risk industrial or trade activities		
Existing sites		
(A6)	Use of land for an existing industrial or trade activity listed as high risk in Table E33.4.3 (before the Table E33.4.3 timeframe expires)	P
(A7)	Use of land for an existing industrial or trade activity listed as high risk in Table E33.4.3 (after the Table E33.4.3 timeframe expires)	C

<i>New sites</i>		
(A8)	Use of land for a new industrial or trade activity listed as high risk in Table E33.4.3	C
Unlisted, low, moderate and high risk industrial or trade activities that do not meet the relevant land use standards		
(A9)	Any activity in this table that does not meet the relevant permitted or controlled land use standards	D

Table E33.4.2 Activity table – Discharge of contaminants from an industrial or trade activity area [rcp/dp]

Table E33.4.2 specifies the activity status of discharges of contaminants from industrial or trade activity areas pursuant to section 15 of the Resource Management Act 1991.

The industrial or trade activity land use and discharge rules address stormwater quality aspects of the discharge of contaminants from an industrial or trade activity area. The rules should be read in conjunction with E31 Hazardous substances, E8 Stormwater – Discharge and diversion and relevant zone rules.

For the purposes of this section ‘existing’ means existing at the date of notification of the Proposed Auckland Unitary Plan, being 30 September 2013.

Activity		Activity status
Consented industrial or trade activities		
(A10)	The discharge of contaminants from an industrial or trade activity that is authorised by a resource consent to discharge contaminants.	P
Unlisted industrial or trade activity areas		
(A11)	Discharge of contaminants from an existing or new industrial or trade activity area not listed in Table E33.4.3	P
(A12)	Discharge of contaminants from an existing or new industrial or trade activity area not listed in Table E33.4.3 where the permitted discharge standards are not met	C
(A13)	Discharge of contaminants from an existing or new industrial or trade activity area not listed in Table E33.4.3 where the controlled discharge standards are not met	D
Low risk industrial or trade activity areas		
(A14)	Discharge of contaminants from an existing or new industrial or trade activity area listed as low risk in Table E33.4.3	P
(A15)	Discharge of contaminants from an existing or new industrial or trade activity area listed as low risk in Table E33.4.3 where the permitted discharge standards are not met	C
(A16)	Discharge of contaminants from an existing or new industrial or trade activity area listed as low risk in Table E33.4.3 where the	D

	controlled discharge standards are not met	
Moderate risk industrial or trade activity areas		
(A17)	Discharge of contaminants from an existing or new industrial or trade activity area listed as moderate risk in Table E33.4.3	P
(A18)	Discharge of contaminants from an existing or new industrial or trade activity area listed as moderate risk in Table E33.4.3 where the permitted discharge standards are not met	C
(A19)	Discharge of contaminants from an existing or new industrial or trade activity area listed as moderate risk in Table E33.4.3 where the controlled discharge standards are not met	D
High risk industrial or trade activity areas		
Existing sites		
(A20)	Discharge of contaminants from an existing industrial or trade activity area listed as high risk in Table E33.4.3 (before the Table E33.4.3 timeframe expires)	P
(A21)	Discharge of contaminants from an existing industrial or trade activity area listed as high risk in Table E33.4.3 (before the Table E33.4.3 timeframe expires) where the permitted discharge standards are not met	C
(A22)	Discharge of contaminants from an existing industrial or trade activity area listed as high risk in Table E33.4.3 (before the Table E33.4.3 timeframe expires) where the controlled discharge standards are not met	D
(A23)	Discharge of contaminants from an existing industrial or trade activity area listed as high risk in Table E33.4.3 (after the Table E33.4.3 timeframe expires)	D
New sites		
(A24)	Discharge of contaminants from a new industrial or trade activity area listed as high risk in Table E33.4.3	D

Table E33.4.3 Activity table – Industrial or trade activity risk criteria

Table E33.4.3 contains a list of industrial or trade activity risk criteria to assist in application of Table E33.4.1 and Table E33.4.2.

The industrial or trade activity land use and discharge rules address stormwater quality aspects of the discharge of contaminants from an industrial or trade activity area. The rules should be read in conjunction with E31 Hazardous substances, E8 Stormwater – Discharge and diversion and relevant zone rules.

For the purposes of this section ‘existing’ means existing at the date of notification of the Proposed Auckland Unitary Plan, being 30 September 2013.

E33 Industrial and trade activities

Description of Industrial or trade activity		Low risk	Moderate risk	High risk	Time-frame (mths)
Agricultural support industries	Inorganic fertiliser manufacture, storage or handling	Less than 1000m ²	1,000m ² to 5,000m ²	More than 5,000m ²	12
Animal feedstuffs	Stock food manufacture storage or handling	Less than 1000m ²	1,000m ² to 5,000m ²	More than 5,000m ²	12
	Pet food manufacture	Less than 1000m ²	1,000m ² to 5000m ²	More than 5,000m ²	12
Chemical and associated product manufacturing	Batteries	Activity is never low risk	No activity area	Any activity area	12
	Cosmetics, toiletry, soap and other detergents	Activity is never low risk	Less than 1,000m ²	More than 1,000m ²	12
	Explosives and pyrotechnics	Activity is never low risk	Less than 1,000m ²	More than 1,000m ²	12
	Fungicides, herbicides, pesticides, timber preservatives and related products	Activity is never low risk	No activity area	Any activity area	12
	Industrial Gas	Activity is never low risk	Less than 5,000m ²	More than 5,000m ²	12
	Medicinal, pharmaceutical or veterinary products	Less than 1000m ²	1,000m ² to 5,000m ²	More than 5,000m ²	12
	Paint, pigment, inks and dyes	Less than 1000m ²	1,000m ² to 5,000m ²	More than 5,000m ²	12
	Polishes, adhesives or sealants	Less than 1000m ²	1,000m ² to 5,000m ²	More than 5,000m ²	12
	Solvents	Less than 1000m ²	1,000m ² to 5,000m ²	More than 5,000m ²	12
	Synthetic resins	Less than 1000m ²	1,000m ² to 5,000m ²	More than 5,000m ²	12
	Acids, alkalis or heavy metals	Activity is never low	No activity area	Any activity area	12
	Other chemical products (e.g. plastic manufacturing)	Less than 1000m ²	1,000m ² to 5000m ²	More than 5,000m ²	12
Commercial livestock processing industries	Slaughter	Less than 1000m ²	1,000m ² to 5000m ²	More than 5,000m ²	12

E33 Industrial and trade activities

Description of Industrial or trade activity		Low risk	Moderate risk	High risk	Time-frame (mths)
	Manufacture, store or handle products derived from animal slaughter (e.g. gelatin, fertiliser or meat products)	Less than 1000m ²	1,000m ² to 5000m ²	More than 5,000m ²	12
	Scouring or carbonising greasy wool or fleeces	Activity is never low risk	Less than 1,000m ²	More than 1,000m ²	12
	Tanneries or Fellmongeries	Activity is never low risk	No activity area	Any activity area	12
	Rendering or fat extraction	Activity is never low risk	No activity area	Any activity area	12
Electronics	Circuit board manufacturing (excluding assembly only)	Activity is never low risk	No activity area	Any activity area	12
Food or beverage manufacturing or handling	Bakery product manufacturing	Less than 1000m ²	1,000m ² to 5,000m ²	More than 5,000m ²	12
	Bakery product handling	Less than 1000m ²	More than 1,000m ²	Activity is never high risk	N/A
	Beverages or malt product manufacturing	Less than 1000m ²	1,000m ² to 5,000m ²	More than 5,000m ²	12
	Beverages or malt product handling	Less than 1000m ²	More than 1,000m ²	Activity is never high risk	N/A
	Flour mill or cereal foods	Less than 1000m ²	1,000m ² to 5,000m ²	More than 5,000m ²	12
	Meat and meat product manufacture (including fish)	Less than 1000m ²	1,000m ² to 5,000m ²	More than 5,000m ²	12
	Meat product handling (including fish)	Less than 1000m ²	More than 1,000m ²	Activity is never high risk	N/A
	Oil or fat product manufacturing or handling	Less than 1000m ²	1,000m ² to 5,000m ²	More than 5,000m ²	12
	Processed dairy foods manufacturing	Less than 1000m ²	1,000m ² to 5,000m ²	More than 5,000m ²	12
	Processed dairy foods handling	Less than 1000m ²	More than 1,000m ²	Activity is never high risk	N/A

E33 Industrial and trade activities

Description of Industrial or trade activity		Low risk	Moderate risk	High risk	Time-frame (mths)
	Vineyards or wine manufacturing	Less than 1000m ²	1,000m ² to 5,000m ²	More than 5,000m ²	12
	Other foodstuffs manufacturing	Less than 1000m ²	1,000m ² to 5,000m ²	More than 5,000m ²	12
	Other foodstuffs handling	Less than 1000m ²	More than 1,000m ²	Activity is never high risk	N/A
Research or defence	Research establishments	Less than 1000m ²	More than 1,000m ²	Activity is never high risk	N/A
	Naval and Air Force defence activities	Activity is never low risk	Less than 1,000m ²	More than 1,000m ²	0
Machinery or equipment manufacturing	Industrial machinery or equipment	Less than 1000m ²	1,000m ² to 5,000m ²	More than 5,000m ²	12
	Motor vehicles or parts	Less than 1000m ²	1,000m ² to 5,000m ²	More than 5,000m ²	12
	Other machinery or equipment	Less than 1000m ²	1,000m ² to 5,000m ²	More than 5,000m ²	12
Metal product manufacturing	Sheet and structural metal products	Less than 1000m ²	More than 1,000m ²	Activity is never high risk	N/A
Motor vehicle services facilities	Existing or new service stations that comply with the Environmental Guidelines for Water Discharges from Petroleum Industry Sites in New Zealand, Ministry for the Environment, December 1998	Activity is never low risk	Activity is always moderate risk	Activity is never high risk	N/A
	All other service stations	Activity is never low risk	Activity is never moderate risk	Activity is always high risk	12
	Mechanical servicing of motor vehicles	Activity is never low risk	Activity is always moderate risk	Activity is never high risk	N/A

E33 Industrial and trade activities

Description of Industrial or trade activity		Low risk	Moderate risk	High risk	Time-frame (mths)
Non-metallic mineral product manufacturing	Cement, lime, plaster and concrete products	Activity is never low risk	Less than 1,000m ²	More than 1,000m ²	12
	Concrete batching plants - ready mixed concrete	Activity is never low risk	No activity area	Any activity area	12
	Glass	Activity is never low risk	Less than 5,000m ²	More than 5,000m ²	12
Metal processing, metallurgical works or metal finishing	Metal plating, anodising or polishing	Activity is never low risk	No activity area	Any activity area	0
	Metal blasting or coating, excluding spray painting	Activity is never low risk	Less than 1,000m ²	More than 1,000m ²	12
	Refinement of ores	Less than 1000m ²	1,000m ² to 5,000m ²	More than 5,000m ²	12
	Processing of metals e.g. smelting, casting	Less than 1000m ²	1,000m ² to 5,000m ²	More than 5,000m ²	12
Petroleum or coal product manufacturing	Bitumen/asphalt premix or hot mix	Activity is never low risk	Less than 1,000m ²	More than 1,000m ²	12
	Coal products	Less than 1000m ²	1,000m ² to 5,000m ²	More than 5,000m ²	12
	Petroleum refining	Less than 1000m ²	1,000m ² to 5,000m ²	More than 5,000m ²	12
	Petroleum hydrocarbon, oil or grease manufacturing	Activity is never low risk	Less than 1,000m ²	More than 1,000m ²	12
Power	Electricity generation	Less than 1000m ²	1,000m ² to 5,000m ²	More than 5,000m ²	12
Product storage or handling centres	Bulk chemicals	Less than 1000m ²	1,000m ² to 5,000m ²	More than 5,000m ²	12
	Bulk hydrocarbons - non-service station	Less than 1000m ²	1,000m ² to 5,000m ²	More than 5,000m ²	12
Recycling, recovery, reuse or disposal	Automotive dismantling	Activity is never low risk	No activity area	Any activity area	12

E33 Industrial and trade activities

Description of Industrial or trade activity		Low risk	Moderate risk	High risk	Time-frame (mths)
	Batteries	Activity is never low risk	No activity area	Any activity area	12
	Chemicals	Activity is never low risk	No activity area	Any activity area	12
	Crushing, grinding or separation works other than sand, gravel, rock or mineral e.g. slag, road base, demolition material	Activity is never low risk	Less than 5,000m ²	More than 5,000m ²	12
	Hazardous materials storage or treatment	Activity is never low risk	No activity area	Any activity area	12
	Landfills	Activity is never low risk	No activity area	Any activity area	12
	Metals - crushing, grinding, sorting or storage	Activity is never low risk	Less than 1,000m ²	More than 1,000m ²	0
	Non-metal recycling e.g. composting, glass, paper or paper board	Less than 1000m ²	1,000m ² to 5,000m ²	More than 5,000m ²	12
	Oil, petroleum hydrocarbon wastes	Activity is never low risk	Less than 1,000m ²	More than 1,000m ²	12
	Chemical containers cleaning, reconditioning, or recycling	Activity is never low risk	Less than 1,000m ²	More than 1,000m ²	12
	Sewage solids treatment or storage facilities	Activity is never low risk	No activity area	Any activity area	12
	Tyres	Activity is never low risk	Less than 1,000m ²	More than 1,000m ²	12
	Waste transfer stations	Activity is never low risk	No activity area	Any activity area	12

E33 Industrial and trade activities

Description of Industrial or trade activity		Low risk	Moderate risk	High risk	Time-frame (mths)
Rubber industries	Tyre manufacturing or retreading	Less than 1000m ²	1,000m ² to 5,000m ²	More than 5,000m ²	12
	Synthetic rubber manufacturing	Less than 1000m ²	1,000m ² to 5,000m ²	More than 5,000m ²	12
Transport and related activities	Boat or ship construction, repair or maintenance	Less than 1000m ²	1,000m ² to 5,000m ²	More than 5,000m ²	0
	Bus depots	Activity is never low risk	Less than 5,000m ²	More than 5,000m ²	12
	Commercial airports other than Auckland International Airport Limited	Activity is never low risk	Less than 1,000m ²	More than 1,000m ²	12
	Auckland International Airport Limited activities contained within the secure area as declared from time to time by the Director of Civil Aviation under section 84 of the Civil Aviation Act 1990 provided that the stormwater runoff from that secure Area complies with Stormwater Management Devices: Design Guidelines Manual second edition, May 2003, Technical Publication 10	Activity is never low risk	Activity is always moderate risk	Activity is never high risk	N/A
	Heliports other than Auckland International Airport Limited	Activity is never low risk	Less than 1,000m ²	More than 1,000m ²	12
	Road freight transport depot (non-chemical) with mechanical servicing	Less than 1000m ²	More than 1,000m ²	Activity is never high risk	N/A
	Road freight transport depot (bulk chemical)	Activity is never low risk	Less than 1,000m ²	More than 1,000m ²	12
	Railway workshops or refuelling depots	Less than 1000m ²	1,000m ² to 5,000m ²	More than 5,000m ²	12

E33 Industrial and trade activities

Description of Industrial or trade activity		Low risk	Moderate risk	High risk	Time-frame (mths)
	Shipping container reconditioning (not located at port areas)	Less than 1000m ²	More than 1,000m ²	Activity is never high risk	N/A
	Commercial ports (including the Ports of Auckland Limited), shipping container reconditioning, and shipping loading/unloading	Activity is never low risk	Less than 5,000m ²	More than 5,000m ²	12
	Existing or new truck refuelling facilities (non-service stations) that comply with the Environmental Guidelines for Water Discharges from Petroleum Industry Sites in New Zealand, Ministry for the Environment, December 1998	Activity is never low risk	Less than 1,000m ²	More than 1,000m ²	12
Wood or paper product storage, manufacturing or fabrication	Log storage yards outside forested areas	Activity is never low risk	Less than 5,000m ²	More than 5,000m ²	12
	Plywood or veneer manufacturing	Less than 1000m ²	1,000m ² to 5,000m ²	More than 5,000m ²	12
	Particle board or other wood panel manufacturing	Less than 1000m ²	1,000m ² to 5,000m ²	More than 5,000m ²	12
	Pulp, paper or paper board manufacturing	Less than 1000m ²	1,000m ² to 5,000m ²	More than 5,000m ²	12
	Timber treatment	Activity is never low risk	Activity is never moderate risk	Any activity area	0
	Treated timber storage	Activity is never low risk	Less than 5,000m ²	More than 5,000m ²	12

Description of Industrial or trade activity		Low risk	Moderate risk	High risk	Time-frame (mths)
Sewage treatment and handling (excluding any part of a sewage conveyance network as that network does not form an industrial or trade activity for the purposes of the industrial or trade activity rules	Environmentally hazardous substances storage or use (excluding sewage)	Activity is never low risk	No activity area	Any activity area	12
	Sewage solids storage.	Less than 1000m ²	1,000m ² to 5,000m ²	More than 5,000m ²	12

Note 1

The risk is based on the size of the industrial or trade activity area. The level of risk e.g. low, moderate or high, determines the type of authorisation required for the activity. Thereafter compliance or otherwise with the provisions of the industrial or trade activity rules, or changes to the size of the industrial or trade activity area, dictate the site's status and therefore the site's risk status can change over time.

Note 2

Some activities are categorised as moderate risk even if they have no industrial or trade activity area.

Note 3

Timeframes should be interpreted as the number of months after this chapter of the Auckland Unitary Plan becomes operative.

Note 4

If the timeframe is 0, this means the timeframe expires the date the provisions becomes operative.

Note 5

The timeframes apply to high risk activities only.

Note 6

The owners or operators of high-risk industrial or trade activity whose permitted activity status expiry dates are approaching should commence the preparation of an Environmental Management Plan for the activity.

Note 7

Electrical substations that contain 1,000 litres or less of oil, are not considered an industrial or trade activity for the purposes of the plan.

E33.5. Notification

- (1) An application for resource consent for a controlled activity listed in Table E33.4.1, Table E33.4.2 and Table E33.4.3 will be considered without public or limited notification or the need to obtain written approval from affected parties unless the Council decides that special circumstances exist under section 95A(4) of the Resource Management Act 1991.
- (2) Any application for resource consent for an activity listed in Table E33.4.1, Table E33.4.2 and Table E33.4.3 and which is not listed in E33.5(1) will be subject to the normal tests for notification under the relevant sections of the Resource Management Act 1991.
- (3) When deciding who is an affected person in relation to any activity for the purposes of section 95E of the Resource Management Act 1991 the Council will give specific consideration to those persons listed in Rule C1.13(4).

E33.6. Standards

E33.6.1. Permitted activities

Activities listed as a permitted activity in Table E33.4.1, Table E33.4.2 and Table E33.4.3 must comply with the following permitted activity standards except activities (A1) and (A2) from Table E33.4.1 and Activity (A10) from Table E33.4.2 do not have to comply with the permitted activity standards.

E33.6.1.1. Use of land for an industrial or trade activity

Activities listed as a permitted activity in Table E33.4.1 must comply with Standards E33.6.1.1(1) to E33.6.1.1(12). In addition, activities (A17) and (A20) in Table E33.4.2 must also comply with Standards E33.6.1.1(13) and E33.6.1.1(14).

- (1) Wastewater and washwater produced by industrial or trade activities must be disposed of on-site via the sanitary sewer, subject to approval from Watercare, or it must be collected, either for recycling or disposal, to a system or facility with all the appropriate authorisations to accept wastewater of that type. For the purposes of this rule, wastewater or washwater also includes:
 - (a) boiler blow down and condensate;
 - (b) all waste liquids generated or collected as part of an industrial or trade activity;
 - (c) cooling tower water excluding vapour; and
 - (d) condensate from air compressors.

- (2) A spill response plan is prepared where any environmentally hazardous substance is handled, used or stored on land at a quantity greater than used for domestic purposes. These plans must meet the requirements of Table E33.9.1 as relevant and be supplied to the Council on request.
- (3) For environmentally hazardous substances in quantities covered by Part 4 of the Hazardous Substances (Emergency Management) Regulations 2001, a spill response plan prepared in accordance with those regulations will be considered to comply with Standard E33.6.1.1(2) provided the emergency spill response plan also explicitly addresses matters (vi) to (x) in Table E33.9.1.
- (4) For environmentally hazardous substances not covered by Part 4 of the Hazardous Substances (Emergency Management) Regulations 2001, a spill response plan prepared in accordance with Council's factsheet 'Being Prepared for a Spill' will be considered to comply with Standard E33.6.1.1(2).
- (5) When the quantity of environmentally hazardous substances stored above the ground exceeds that used for domestic purposes, it must be stored:
 - (a) in a container and in a manner that prevents the entry of rainwater into the container; and
 - (b) within a secondary containment device or within a containment system that is constructed of impervious materials that are resistant to chemical attack from the substances contained therein.
- (6) For environmentally hazardous substances in quantities covered by Part 4 of the Hazardous Substances (Emergency Management) Regulations 2001, storage requirements in accordance with those regulations will be considered to comply with Standard E33.6.1.1(5).
- (7) For environmentally hazardous substances not covered by Part 4 of the Hazardous Substances (Emergency Management) Regulations 2001, storage requirements in accordance with council's factsheet 'Above Ground Storage' noting the following bund sizing criteria for secondary stage storage, will be considered to comply with Standard E33.6.1.1(5) where:
 - (a) for tanks the bund has a storage capacity of at least 110 per cent of the capacity of the largest tank taking into account the volume displaced by any equipment and/or materials stored within the bund; and
 - (b) for drums the bund has an effective storage height of at least 100mm, allowing for any sloping ground, and the bund is set back from the drums by a distance equal to half the height of the stacked or stored drums.

- (8) All secondary containment devices must be designed, constructed and managed so that uncontaminated rainwater and stormwater runoff is prevented from flowing into the contained area.
- (9) Weekly inspections must be undertaken and recorded to check that environmentally hazardous substances are stored and/or contained appropriately except as follows:
 - (a) National Grid - monthly inspections;
 - (b) electricity substations – annual inspections; and
 - (c) unmanned depots or facilities - monthly inspections.
- (10) A regular reconciliation process must be undertaken for any environmentally hazardous substance stored in an underground storage tank that will identify any leakage or unaccounted losses of material from the tank.
- (11) Any waste compactors and bins must be located and operated in such a manner that prevents leachate or waste leaking from them.
- (12) All on-site vehicle re-fuelling areas must be segregated and housed under cover, and/or surrounded by a drain that drains to an appropriately designed and sized stormwater treatment and spill containment device fitted with a shut-off valve.
- (13) Operations must be undertaken in accordance with an environmental management plan specific to the industrial or trade activity. This plan must be prepared in accordance with Table E33.9.2, and supplied to Council upon request.
- (14) Where the industrial or trade activity is located within a sewage treatment facility then the wastewater generated on site by that industrial or trade activity may be disposed of within that facility.

E33.6.1.2. Discharge from an industrial or trade activity area

Activities listed as a permitted activity in Table E33.4.2 must comply with the following standard.

- (1) The discharges of contaminants from an industrial or trade activity area must result in less than minor adverse environmental effects on the receiving environment without the need for stormwater treatment (with the exception of on-site vehicle refuelling areas requiring stormwater treatment and spill contaminant devices under the permitted activity Standard E33.6.1.1(12)).

E33.6.2. Controlled Activities

E33.6.2.1. Use of land for an industrial or trade activity

Activities listed as a controlled activity in Table E33.4.1 must comply with the following standard.

- (1) The activity must comply with 'Use of land for an industrial or trade activity' permitted activity standards E33.6.1.1(1) to E33.6.1.1(12).

E33.6.2.2. Discharge from an industrial or trade activity area

Activities listed as a controlled activity in Table E33.4.2 must comply with the following standards.

- (1) The activity must comply with the relevant 'Use of land for an industrial or trade activity' in Standard E33.6.1.1.
- (2) Treatment devices to treat the discharge of contaminants from the industrial or trade activity area are installed and operated to avoid, remedy or mitigate adverse environmental effects.

E33.7. Assessment – controlled activities

E33.7.1. Matters of control

The Council will reserve its control to all of the following matters when assessing a controlled activity resource consent application:

- (1) management practices, treatment systems or devices, to the extent that they are required to avoid remedy or mitigate adverse environmental effects, having regard to:
 - (a) the degree to which the land use controls avoid or minimise the risk of discharge contaminants from the industrial or trade activity area; and
 - (b) the nature and sensitivity of the receiving environment and its susceptibility to the adverse effects of the contaminants of concern.
- (2) the operation and maintenance requirements of any structural controls or treatment devices.

E33.7.1.1. Assessment criteria

The Council will consider the relevant assessment criteria below for controlled activities:

- (1) policies in E33.3 Policies.

E33.8. Assessment - Restricted discretionary activities

There are no restricted discretionary activities in this section.

E33.9. Special information requirements**Table E33.9.1 Spill response plan requirements**

No.	Requirement
i.	A protocol/method for identifying and stopping the discharge of environmentally hazardous substances to land or water and avoiding future events of this nature
ii.	Emergency containment and clean-up procedures
iii.	A list of appropriate spill kit contents to enable the containment and/or absorption of spilt material and a plan showing the location of the spill kits
iv.	A requirement for appropriate signage to identify the location of spill kits and the actions to be taken in the event of a spill
v.	Actions to remedy or mitigate any adverse effects on the environment or public health and safety arising from the discharges or spills of environmentally hazardous substances to land or water
vi.	Methods for disposal of spilt environmentally hazardous substances and any other contaminated materials used in the spill clean-up
vii.	A schedule of adequate training for personnel in the use of the emergency spill response plan and in anticipating and preventing the likelihood of spills
viii.	Up-to-date and accurate copies of all drainage plans for the land on which the industrial or trade activity is undertaken showing the location of the final discharge point to the public stormwater system or to land or water
ix.	A procedure for notifying as soon as practicable Council's 24-hour emergency response service and the relevant stormwater or wastewater network operator in the event of any discharge of environmentally hazardous substances that results in, or is likely to result in, contamination of any stormwater system, or land or water
x.	Methods for disposing of any spills in a secondary containment device. The plan must set out how it will be disposed of in an appropriate and authorised manner

Table E33.9.2 Environmental management plan requirements

No.	Requirement
i.	Specify how the permitted activity controls will be complied with
ii.	Identify the environmentally hazardous substances associated with the industrial or trade activity
iii.	Set out the methods to be used to avoid discharges of environmentally hazardous substances onto or into land or water
iv.	For discharge of contaminants arising from land on which the industrial or trade activity is undertaken, set out the primary treatment or source control methods that may be necessary to avoid, remedy or mitigate more than minor adverse effects on the receiving environment
v.	Specify the methods for the operation and maintenance of any treatment devices on site

vi.	Identifies assessment requirements to report on the performance of the environmental management plan
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Note 1

The environmental management plan must be appropriate to the scale and significance of the risk at each site. Where appropriate, the environmental management plan may include cross references to relevant documentation that is readily accessible at the site, rather than including the full documents themselves.