

30 June 2025

SLR Ref No.: Kaipara PDP Submission of the Fuel Companies 20250616

District Plan Team  
Kaipara District Council

By email: [districtplanreview@kaipara.govt.nz](mailto:districtplanreview@kaipara.govt.nz)

SLR Project No.: 810.031505.00001

**RE: Submission on Kaipara Proposed District Plan  
Pursuant to Clause 6 of the First Schedule of the  
Resource Management Act 1991**

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**Submitter:**

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Hereafter referred to as the **Fuel Companies**

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<sup>1</sup> On behalf of the wider Z group, including the Z Energy and Caltex operations in New Zealand.

## Introduction

- 1 Kaipara District Council (*the Council*) has publicly notified the Proposed Kaipara District Plan (**PDP**) pursuant to Clause 5 of Schedule 1 of the Resource Management Act 1991 (**RMA**). This is the submission of bp Oil New Zealand Limited, Mobil Oil New Zealand Limited, and Z Energy Limited (*the Fuel Companies*) pursuant to Clause 6 of Schedule 1 of the RMA.
- 2 The Fuel Companies receive, store and distribute refined petroleum products around New Zealand. In Kaipara District (*the district*), the Fuel Companies' core business relates to retail fuel outlets including service stations and truck stops. The retail fuel activities include the storage and use of hazardous substances (petroleum fuels), the refuelling of vehicles, including by way of electric charging, other vehicle services (air pump, car wash, etc.), and retail activities. Fuel deliveries are undertaken via tankers which occur infrequently but often without restriction in terms of frequency or times.
- 3 The Fuel Companies' service stations are located in the Commercial Zone and one in the Special Purpose Zone – Estuary Estates (Mangawhai Central). The Fuel Companies' networks are important to the social and economic success of the district. It is important that the management of these networks are appropriately addressed in the PDP to ensure fuel supply for the district and beyond. This submission is focused on those issues that the Fuel Companies perceives may inappropriately restrict or limit their existing operations.

### The specific provisions of the Kaipara PDP that the Fuel Companies' submission relates to are summarised as follows:

- 4 The specific provisions submitted on, the rationale for the Fuel Companies' submission on each of these matters, and the relief sought is contained in the attached **Schedule A**. The Fuel Companies support alternative relief that achieves the same outcomes.
- 5 In addition to the specific outcomes and relief sought, the following general relief is sought:
  - a) To achieve the following:
    - i. The purpose and principles of the *Resource Management Act* 1991 (**RMA**) and consistency with the relevant provisions in Sections 6 - 8 RMA.
    - ii. Give effect to the Northland Regional Policy Statement.
    - iii. Avoid duplication within the Northland Regional Plan or other legislation.
    - iv. Assist the Council to carry out its functions under Section 31 RMA.
    - v. Meet the requirements of the statutory tests in Section 32 of the RMA.
    - vi. Avoid, remedy or mitigate any relevant and identified environmental effects.
  - b) To make any alternative or consequential relief as required to give effect to this submission, including any consequential relief required in any other sections of the plan that are not specifically subject of this submission but where consequential changes are required to ensure a consistent approach is taken throughout the document.
  - c) To make any other relief required to give effect to the issues raised in this submission.
- 6 **The Fuel Companies wish to be heard in support of this submission.**



- 7 If others make similar submissions the Fuel Companies may be prepared to consider presenting a joint case with them at any hearing.
- 8 The Fuel Companies could not gain an advantage in trade competition through this submission.
- 9 The Fuel Companies are directly affected by an effect of the subject matter of that submission that:
  - a) Adversely affects the environment; and
  - b) Does not relate to trade competition or the effects of trade competition.

Signed on behalf of Z Energy Limited, bp Oil New Zealand Limited and Mobil Oil New Zealand Limited

Regards,

**SLR Consulting New Zealand**



**Miles Rowe**

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Attachments    Schedule A



## Schedule A

**Table 1: Fuel Companies submission and relief to Kaipara Proposed District Plan**

Where changes are sought within the table, additions are in red underline, and deletions are in ~~red strikethrough~~.

Provision	Position	Reason	Relief Sought
<b>Part 1 – Introduction and general provisions / Interpretation</b>			
<b>Definitions Chapter</b>			
Cumulative Risk	Oppose in part	Consistent with the Fuel Companies submission seeking the deletion of the definition of “hazardous facility” and the amendment to the definition on “Significant Hazardous Facility”, the definition of “cumulative risk” (which is only referenced once in a hazardous substance policy) should be amended to only apply to significant hazardous facilities.	<b>Amend</b> the definition of Cumulative Risk as follows: Means in the context of hazardous substances, the risk posed by a <u>significant</u> hazardous facility added to or multiplied, or otherwise accumulated by risk from other <u>significant</u> hazardous facilities in the vicinity where risks of one facility can influence the risk of the other.
Electric vehicle charging stations	Oppose in part	The Fuel Companies support the PDP to included permitted rules for the provision of electric vehicle charging stations (e.g. TRAN-R5 and COMZ-R10), but consider the definition is unhelpful and not needed. In particular, reference to “self supporting facility” could imply that charging facilities are not supported by external connections (e.g. electricity), or that charging facilities attached to another building or structure should not be provided for. The Fuel Companies consider that the meaning of electric vehicle charging station is clearly understood and a definition does not need to be provided in the PDP.	<b>Delete</b> the definition for electric vehicle charging stations:  <del>Self-supporting facilities for charging electric vehicles</del>
Hazardous Facility	Oppose	The Resource Legislation Amendment Act 2017 (RLAA) removed the explicit function of district and regional councils to control the adverse effects of the storage, use, disposal or transportation of hazardous substances under sections 30 and 31 of the RMA. While councils do retain a broad power under the RMA to manage hazardous substances through their plans and policy statements to achieve the purpose of the RMA and to carry out the function of integrated management of natural and physical resources in their	<b>Delete</b> the definition for hazardous facility:  <del>Means activities involving hazardous substances and premises at which these substances are used, stored or disposed of. Storage includes vehicles for their transport located at a facility for more than short periods of time and excludes:</del>



Provision	Position	Reason	Relief Sought
		<p>region/district, this should only be exercised where the potential environmental effects are not adequately addressed by other legislation, including by the Hazardous Substances and New Organisms Act 1996 (HSNO) and the Health and Safety at Work Act 2015 (HSWA).</p> <p>HSNO and HSWA consider surrounding land uses generically, by including different clearances with respect to substances (HSNO) or surrounding land uses (HSWA). Most of these controls apply regardless of where that substance is stored or used and apply a precautionary approach which provides for an acceptable level of safety in most circumstances. Generally, the HSNO and HSWA controls are adequate to avoid, remedy or mitigate adverse environmental effects of hazardous substances. In particular circumstances, it may be appropriate that RMA controls are used. However, only where robust section 32 analysis is able to demonstrate that such controls are both necessary and efficient. The expectation is that controls on hazardous substances in RMA plans will be the exception rather than the norm.</p> <p>The provisions in the PDP essentially roll-over the existing permitted quantity thresholds contained in Appendix 25D of the Operative District Plan and apply controls to a broad range of facilities storing hazardous substances including service stations. No risk-based evidence is provided to demonstrate why there is a need to manage all risk associated with hazardous substances storage through RMA land-use controls, particularly where compliance with HSNO and HSWA requirements mean risk is largely contained within the boundary of a site. This is contrary to the intent of the MfE guidance<sup>2</sup> produced in response to RLAA 2017, which is clear that hazardous substances provisions in district plans that are not necessary to deal with potential environmental effects not already covered by other legislation should be removed. Also, that RMA controls on tanks that are subject to HSNO regulations are generally not necessary.</p>	<ul style="list-style-type: none"> <li><del>fuel stored in mobile plants;</del></li> <li><del>motor vehicles, boats and small engines;</del></li> <li><del>the incidental use and storage of hazardous substances in domestic scale quantities;</del></li> </ul> <p><del>activities involving sub-classes not included in the Activity Status Table.</del></p>

<sup>2</sup> <https://www.qualityplanning.org.nz/sites/default/files/2019-07/managing-hazardous-substances.pdf>



Provision	Position	Reason	Relief Sought
		<p>One area where the Fuel Companies recognise there is a potential land use planning gap is in relation to Major Hazard Facilities (as designated under the Health and Safety at Work (Major Hazard Facilities) Regulations 2016) and the potential interface with adjoining land uses. This is because these facilities are usually of such a scale that even when managed in accordance with HSNO and HSWA requirements and industry best practice, residual risk will likely extend beyond the property boundary. In these situations, the acceptability of that residual risk in the context of surrounding land uses will be a relevant land use planning consideration.</p> <p>In some instances, councils adopt a broader definition of 'Significant Hazardous Facility' (SHF) which includes Major Hazard Facilities (see point below relating to SHF definition).</p> <p>Where effects from a SHF are not fully addressed by compliance with HSNO and HSWA, measures such as location specific risk overlays or separation distances (using risk contours based on a risk analysis) may be appropriate. Depending on the risk, it may be appropriate to consider land use restrictions on land in the vicinity of a SHF to enable the SHF to carry out operations, including maintenance and upgrades, without being unreasonably constrained by encroachment of sensitive activities.</p> <p>In light of the RLAA and controls under other legislation, district plan hazardous substance controls are largely considered to be unnecessary in most circumstances, unless intervention is clearly justified by robust section 32 analysis. This level of analysis has not been undertaken by the Council's section 32 evaluation report. There is no justification for the 'hazardous facility' definition or for the level of intervention and restriction that appears in the hazardous substances chapter of the PDP, i.e. where the storage and use of hazardous substances is below the threshold applied to a SHF.</p> <p>Refer to other Fuel Companies submission points on the SHF definition and provisions in the hazardous substances chapter.</p>	
Hazardous Substance	Support	The Fuel Companies support that the definition of Hazardous Substance is the same as that in Section 2 of the RMA.	<b>Retain</b> definition of Hazardous Substance as notified.



Provision	Position	Reason	Relief Sought
Impermeable Surface and Impervious Surface	Support in part	The Fuel Companies support the inclusion of a definition for impermeable or impervious surface. However, it is noted that the definitions for impervious and impermeable surfaces are the same and are used interchangeably throughout the district plan for no clear reason. It is suggested that it would be best to use only one of the terms to prevent confusion and make the plan more efficient.	<b>Delete</b> the definition of <i>Impervious surface</i> and replace all instances where the term is used in the Plan with <i>Impermeable Surface</i> for consistency.
Sensitive activities	Support	The definition for sensitive activities is appropriate and supported by the Fuel Companies.	<b>Retain</b> definition of Sensitive Activities as notified.
Significant Hazardous Facility	Oppose	<p>Refer to detailed comments in relation to the submission on the definition for hazardous facility.</p> <p>The Fuel Companies oppose the table contained in HS-S1 and the reliance on this table within the definition for Significant Hazardous Facilities (SHF). A definition is to provide clarity and to ensure consistent application across a District Plan, e.g. the type of buildings or activities that constitute a SHF, and in general, any thresholds should be stated in rules and standards, and not the definition.</p> <p>As notified, the definition would capture all service stations by virtue of the HS-S1 table, and in combination with the restrictive rule regime within the hazardous substances chapter, presents a major concern to the Fuel Companies in terms of the development and operation of service stations. The Fuel Companies do not consider that such an approach has been justified, particularly in light of the RLAA 2017 and removal of the explicit function of councils to control the storage, use, disposal or transportation of hazardous substances under sections 30 and 31 of the RMA.</p> <p>While the Fuel Companies generally support the PDP to include a definition for SHF, it is considered that the current proposed definition is flawed. In addition, the rules in the hazardous substances chapter are not specific to SHF's. This requires a rethink to the SHF definition and its application through the hazardous substance chapters and other parts of the PDP to ensure that it is the most efficient or effective way of controlling Hazardous Substances in the District. The Fuel Companies consider that if their suggested definition of SHF and associated proposed hazardous substances</p>	<p><b>Delete</b> the definition of Significant Hazardous Facility and replace with the following:</p> <p><del>means a site where the aggregate quantity of any hazardous substance of any hazard classification on the site exceeds the quantity specified for the applicable zone in Standard HS-S1 in the Hazardous Substances chapter of this plan.</del></p> <p><u>means the use of land and/or buildings (or any part of) for one or more of the following activities:</u></p> <ul style="list-style-type: none"> <li>a) <u>Any Major Hazard Facility designated under the Health and Safety at work (Major Hazard Facilities) Regulations 2016;</u></li> <li>b) <u>Manufacturing, including the associated storage, of hazardous substances (including agrichemicals, fertilisers, acids/alkalis or paints);</u></li> <li>c) <u>Petroleum exploration and petroleum production facility;</u></li> <li>d) <u>The storage/use of more than 100,000L of petrol or diesel;</u></li> <li>e) <u>The storage/use of more than 6 tonnes of LPG;</u></li> <li>f) <u>Galvanising plants;</u></li> <li>g) <u>Electroplating and metal treatment;</u></li> </ul>



Provision	Position	Reason	Relief Sought
		<p>rule framework is adopted, then the threshold limits in HS-S1 would no longer be necessary, and would result in a more efficient and effective way to appropriately manage the risk associated with locating SHF within sensitive environments. To achieve this outcome, the Fuel Companies suggest that a definition similar to that proposed by Far North District Council could be adopted in conjunction with the other changes sought by the Fuel Companies to the Hazardous Substances chapter. This would prevent duplication with other legislation and make the definition and associated provisions more efficient and effective for Plan Users.</p> <p>Refer also to the Fuel Companies submissions on the hazardous substances chapter.</p>	<p>h) <u>Tanneries;</u> i) <u>Timber treatment;</u> j) <u>Freezing works and rendering plants;</u> k) <u>Wastewater treatment plants;</u> l) <u>Metal smelting and refining (including battery refining or recycling);</u> m) <u>Milk processing plants; or</u> n) <u>Polymer foam manufacturing.</u></p> <p><u>The storage of petrol and diesel in (d) above does not include the underground storage at service stations and commercial refuelling facilities undertaken in accordance with HSNOCOP 44 Below Ground Stationary Container Systems for Petroleum - Design and Installation and HSNOCOP 45 Below Ground Stationary Containers Systems for Petroleum - Operation (or more recent relevant WorkSafe guidance for underground fuel storage.)</u></p>
<b>Part 2 – District-wide Matters / Strategic Direction</b>			
<b>Vision for Kaipara</b>			
SD-VK-O6 Reverse sensitivity	Support	The Fuel Companies support the general intent of the strategic objective to avoid, where practicable, reverse sensitivity effects between incompatible activities and zones.	<b>Retain</b> Objective SD-VK-O6 as notified.
SD-VK-O7 Providing a variety of living options and housing choices	Support in part	The general intent of the objective is supported to provide for a variety of development opportunities, living options and housing choices across zones. However, the objective could be interpreted to mean that all or most zones should provide for living options and housing choices. The Fuel Companies consider that residential activities should only be provided where it meets the anticipated purpose of the zones (noting that all the zones include an objective setting out its purpose).	<p><b>Amend</b> Objective SD-VK-O7 as follows:</p> <p>A variety of development opportunities, living options and housing choices are provided for <u>through a range of where is it in accordance with the purpose of the</u> zones.</p>





Provision	Position	Reason	Relief Sought
<b>Part 2 – District-wide Matters / Energy, Infrastructure, and Transport</b>			
<b>Transport Chapter</b>			
TRAN-R3 Land use and development	Support	The Fuel Companies support a general permitted activity transport rule that applies to land use and development provided that the changes sought to the Transport Standards below are accepted.	<b>Retain</b> TRAN-R3 as notified.
TRAN-R4 Vehicle access	Support	The Fuel Companies support the permitted activity rule and subsequent restricted discretionary activity status for vehicle access.	<b>Retain</b> TRAN-R4 as notified.
TRAN-R5  Electric vehicle charging stations within the road corridor	Oppose	<p>The Fuel Companies support the intent of providing a permitted activity status for electric vehicle charging stations (EVCS). Rule TRAN-R5 specifies that it applies to EVCS within the road corridor only. However, clause c requires compliance with standards TRAN-S1 to TRAN-S8, all of which relate to site based activities. It is, therefore, unclear how EVCS in the road corridor would achieve compliance.</p> <p>It is noted that, to be permitted under Rule TRAN-R3, EVCS within a 'site' would also be required to comply with standards TRAN-S1 to TRAN-S8, many of which are irrelevant to EVCS (for example TRAN-S4 to TRAN-S7).</p> <p>The rules for EVCS as currently drafted are considered to be unworkable.</p> <p>Irrespective, the Government is currently (until 27 July 2025) consulting on proposed changes to the NES Electricity Transmission, which is proposed to be renamed as the NES for Electricity Network Activities (NES-ENA) and to introduce a clear permissive framework for electric vehicle charging infrastructure, in any location.</p> <p>Key standards must be met to achieve a permitted activity status, including:</p> <ul style="list-style-type: none"> <li>- A maximum height of 3 metres if located within 1m of any front property boundary or 1 m of any boundary adjoining a residential zone;</li> <li>- Compliance with specific noise standards relating to residential zones and non-residential zones; and</li> </ul>	<p><b>Delete</b> TRAN-R5 as notified in order to avoid conflict with the emerging NES-ENA and enable reliance on the enabling framework provided in the NES-ENA for electric vehicle charging infrastructure.</p> <p><b>Alternatively</b>, in the event the proposed NES-ENA provisions relating to EVCS are not introduced, amend TRAN-R5 consistent with the EVCS provisions set out in the proposed NES-ENA, specifically, introduce a permitted activity rule for EVCS with standards relating only to height, noise and earthworks.</p>



Provision	Position	Reason	Relief Sought
		<p>- Controls on earthworks.</p> <p>The changes are expected to come into effect by the end of 2025, such that need for district plan rules relating to EVCS is likely to fall away.</p> <p>On that basis, the Fuel Companies consider all PDP rules relating to EVCS can likely be deleted in favour of the provisions in the emerging NES-ENA, as well as to support a low emissions economy for the district, region and New Zealand. However, as a minimum, all EVCS rules in the PDP should be amended consistent with the approach currently proposed to be taken in the NES-ENA.</p>	
TRAN-S1 Traffic generation	Support in part	The Fuel Companies support there being a traffic generation standard for the Commercial Zone in TRAN-S1 (1)(c). The Fuel Companies also support the default activity status of restricted discretionary and associated matters over which discretion is restricted in TRAN-S1 (3) and (4), respectively. However, the link with TRAN Table 1 is unclear / confusing and the notes under the standard do not clearly outline the purpose /function of TRAN Table 1. Amendments are sought to Note 1 of the standard to make the link to TRAN Table 1 clearer.	<p><b>Retain</b> TRAN-S1 (1), (3) and (4), as notified <b>AND</b> <b>Amend</b> TRAN-S1 Note 1 as follows: <b>Note 1:</b> <i>TRAN-Table 1 -Traffic Intensity Factor contains the trip-generation the average typical daily one-way vehicle movements for each a particular activity and is to be used as a guide for the purpose of applying the limits in TRAN-S1, unless more detailed site and activity specific information is provided.</i></p>
TRAN Table 1	Support in part	The heading of the second column of the table appears to incorrectly refer to “Car Parking Spaces Required” where it should refer to the Traffic Intensity Factor / Vehicle Movements. The Fuel Companies seek that this typographic error is corrected to prevent confusion.	<p><b>Amend</b> heading of second column of TRAN Table 1 as follows: <del>Car Parking Spaces Required</del> <u>Vehicle Movements</u></p>
TRAN Table 2 Car parking spaces required	Support	The Fuel Companies support the car parking space requirements in Table 2 for a service station with shop.	<b>Retain</b> Table 2, as notified, for a service station with shop.
<b>Part 2 – District-wide Matters / Hazards and Risks</b>			
<b>Contaminated Land Chapter</b>			
Contaminated land overview	Support in part	The Fuel Companies support the intent of the chapter overview, including the purpose of the National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health (NESCS). However, it is considered that the overview section	<b>Delete</b> the Contaminated Land Overview and <b>replace</b> with the following overview:



Provision	Position	Reason	Relief Sought
		could better state the purpose of the chapter to support the rules in the NESCS.	<p><u>Contaminated soil in the District can have adverse effects on human health if it is not appropriately managed.</u></p> <p><u>Council has responsibilities under the RMA in relation to the subdivision, use or development of contaminated land. This includes observing and enforcing the Resource Management (National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health) Regulations 2011 (NESCS). The NESCS provides a national environmental standard for activities on land where soil may be contaminated. The NESCS seeks to ensure that contaminated pieces of land are appropriately identified and assessed when soil disturbance, subdivision or a change in land use takes place and, if necessary, remediated or managed to ensure the land is safe for human health and its intended use.</u></p> <p><u>There are no independent or additional rules in the District Plan to manage contaminated land. The purpose of this chapter is to provide a corresponding policy framework for assessing resource consent applications required under the NESCS.</u></p> <p><u>The Northland Regional Council has other responsibilities under the RMA in relation to contaminated land. This includes managing the effects of activities on the environment (such as the discharge of contaminants in soil into surface water or groundwater) and identifying and monitoring contaminated land through the Selected Land-use Register (SLR). The SLR is a regional database of sites that have been, or may have been, used for activities and industries included in the Ministry for the Environment's Hazardous Activities and Industries List (HAIL).</u></p>



Provision	Position	Reason	Relief Sought
			<a href="#"><u>The Ministry for the Environment's website provides access to the NESCS, HAIL, NESCS Users' Guide, and documents incorporated by reference in the NESCS such as the Contaminated Land Management Guidelines.</u></a>
CL-O1 Contaminated land, and CL-O2 Management and remediation of contaminated land	Support in part	<p>The Fuel Companies support the general intent of the contaminated land objectives where these accord with the Council's functions under the RMA in relation to contaminated land. However, it is considered that the two objectives can be simplified to a single objective.</p> <p>The Fuel Companies support an objective to protect human health and the intended use of the contaminated land. This arises from the regulations in the NESCS to disturb soil, subdividing or changing the use of land and ensuring that contaminant levels are safe with respect to risk profile or sensitivity of the intended use, which will vary dependent on the intended use, e.g. residential verses industrial activities.</p> <p>There is a concern that CL-O1 also extends to effects on the environment from contaminated land. It is the responsibility of Northland Regional Council to maintain the Selected Land-use Register (SLR) and the rules/methods in the Northland Regional Plan to investigate potentially contaminated land, remediating contaminated land, and discharging contaminants from contaminated land to soil, water and air. In contrast, the policy framework of a contaminated land chapter, complementing the existing rules framework of the NESCS, would focus on human health effects from subdividing, changing use and developing contaminated land. No other contaminated land rules are proposed in the PDP, so a broader objective/policy framework relating to effects on the environment is not required.</p> <p>There is a concern with CL-O2 that it seeks to increase development opportunities from the remediation and site management of contaminated land, however, this alone does not increase the</p>	<p><b>Delete</b> objectives CL-O1 and CL-O2 and <b>replace</b> with a new objective as follows:</p> <p><b><a href="#"><u>CL-O1 Identify and manage contaminated land</u></a></b>  <a href="#"><u>Contaminated land is identified and managed so that it remains acceptable and safe for human health and its intended use.</u></a></p>



Provision	Position	Reason	Relief Sought
		development opportunity, nor is it related to Council's responsibility to protect human health associated with contaminated land. The two notified objectives should be deleted and replaced with a new objective.	
CL-P1 Identify contaminated sites	Support in part	The Fuel Companies support the general intent of policy CL-P1 relating to the identification of contaminated land. However, in accordance with the NESCS and MfE contaminated land guidelines, identification relates to the 'piece of land', rather than the site. That is, in some cases the entire site may not be a 'piece of land' and the title of the policy should be amended to "identify contaminated land". Further, it is considered that the policy should be aligned with Council's responsibility to identify contaminated land at the time of subdivision, change of use or development. A new policy is proposed to replace the notified policy.	<b>Delete</b> policy CL-P1 and <b>replace</b> with a new policy as follows:  <b><u>CL-P1 Identification of Contaminated Land</u></b> <u>To identify land that is, or is likely to be, subject to contamination as a result of current or historical land uses and activities at the time of subdivision, change of use, or development.</u>
CL-P2 Earthworks on contaminated land	Oppose	The Fuel Companies do not support the intent of CL-P2 for several reasons: <ul style="list-style-type: none"> <li>The policy does not accord with the requirements of the NESCS and not all disturbance will lead to a change in toxicity or have an effect on human health. For example, reg 8.1 of the NESCS permits the removal or replacement of fuel storage systems, even if there is no contaminated land, and is not in itself remediation.</li> <li>The policy extends to effects on the environment from contaminated land, and as noted in the submission on the contaminated land objectives, the policy framework of a contaminated land chapter, should focus on human health effects from subdividing, changing use and developing contaminated land.</li> </ul> Policy CL-P2 should be deleted and any effects on health dealt with through policy CL-P3, including in relation to remediation, subject to the submission amendments sought to that policy.	<b>Delete</b> policy CL-P2.



Provision	Position	Reason	Relief Sought
CL-P3 Contaminated land management and remediation	Support in part	<p>The Fuel Companies support the general intent of CL-P3 but consider that it oversteps Council's responsibilities under the RMA and NESCS, including the concerns raised on the contaminated land objectives and policy CL-P2 relating to effects on the environment from contaminated land.</p> <p>Clause (3) and (6) of the policy imply that some type of site investigation will be needed (e.g. a preliminary site investigation (PSI) or detailed site investigation (DSI)) prior to any subdivision, change of use or development (that requires NES-CS consent). For the Fuel Companies, a common NESCS consent requirement is during service station retanking work as it typically exceeds the permitted soil disturbance volume under reg 8(1). While there is a controlled or restricted discretionary activity pathway under regs 9 or 10 respectively, both require the existence of a DSI. A DSI is not undertaken in most situations of retanking at an operational site as:</p> <ul style="list-style-type: none"> <li>• It would not be feasible (i.e., drilling through sealed forecourts around underground tanks); and</li> <li>• It would not offer any particular benefit as the nature of potential contaminants (e.g., petroleum hydrocarbons) is known and there are established management and/or remediation measures to appropriately undertake the works.</li> </ul> <p>As such, the Fuel Companies usually apply for a discretionary activity consent under reg 11 where permitted standards will not be met. Therefore, if the Fuel Companies were to apply for such a consent, the absence of a DSI may lead to the activity being considered contrary to CL-P3.</p> <p>The policy is also overly complex and does not accord with the best practice approach for the management or remediation of contaminated land.</p> <p>A new policy is proposed to replace the notified policy.</p>	<p><b>Delete</b> policy CL-P3 and <b>replace</b> with a new policy as follows:</p> <p><b><u>CL-P2 Human Health</u></b></p> <p><u>To ensure that land that is, or is likely to be, subject to contamination is safe for human health and suitable for the intended use through the following methods where appropriate:</u></p> <ol style="list-style-type: none"> <li>1. <u>Requiring a best practice approach to remediation and/or management of the piece of land.</u></li> <li>2. <u>Mitigating the risk posed by the contaminants to human health.</u></li> <li>3. <u>Transporting, tracking, and disposing soil and other materials where it cannot be appropriately managed in-situ.</u></li> </ol>
There are no rules for this chapter	Support	<p>The Fuel Companies support that there are no rules in the Contaminated Land Chapter in conjunction with the supporting Objective and Policy framework that does not duplicate the</p>	Retain the note that there are no rules for this chapter.



Provision	Position	Reason	Relief Sought
		provisions of the National Environmental Standards for Assessing and Managing Contaminants in Soil to Protect Human Health 2011 (NESCS)	
<b>Hazardous Substances Chapter</b>			
Hazardous substances overview	Oppose	<p>Refer to detailed submission reasons provided for the deletion of the definition on “hazardous facility” and the amendment to the definition on “Significant Hazardous Facility” (SHF).</p> <p>The Resource Legislation Amendment Act 2017 (RLAA) removed the explicit function of district and regional councils to control the adverse effects of the storage, use, disposal or transportation of hazardous substances under sections 30 and 31 of the RMA. The Fuel Companies consider the chapter overview needs to better reflect the functions of Council under the RMA and the need to avoid duplication of controls under the HSNO and HSWA legislation, and to refocus the chapter towards controlling the risks associated with SHF. These matters are reflected in the changes/deletions to the 1<sup>st</sup> and 2<sup>nd</sup> paragraphs.</p> <p>The 3<sup>rd</sup> and 4<sup>th</sup> paragraph both deal with the risks associated with hazardous substances. The 4<sup>th</sup> paragraph relates to the location of the hazardous substances activities and uses an example that implies that such activities are at greater risk in areas subject to natural hazards. This inference is opposed by the Fuel Companies as their hazardous substances activities are generally resilient to the risks of natural hazards. For example, underground fuel storage systems are unaffected by the effects of flooding, and in many instances are situated in or below the watertable where they are inundated on a daily basis. The 3<sup>rd</sup> paragraph already comments on the location of the environment that is affected. The 4<sup>th</sup> paragraph is also unnecessary as the objectives, policies and rules of the chapter are not specific to the location of the activity.</p> <p>Changes are proposed to the 5<sup>th</sup> paragraph to reflect the Fuel Companies proposed shift in focus to SHF and address reverse sensitivity effects. The paragraph, as notified, also relates to adverse effects in relation to ‘areas’ of natural hazards, and it is considered</p>	<p><b>Amend</b> the hazardous substances overview, including <b>deletion</b> of the 4<sup>th</sup> and 6<sup>th</sup> paragraphs as follows:</p> <p>Hazardous substances include explosives, pesticides, industrial chemicals, paints, fertilisers and petrol, household cleaners, cosmetics and many other substances. Hazardous Substances are regulated under the Hazardous Substances and New Organisms Act 1996 (HSNO) and the Health and Safety at Work Act 2015 (<u>HSWA</u>). The district plan has the supporting role of controlling the land use activities including man-made hazards of a chemical nature— <u>provided these do not duplicate controls in HSNO, HSWA or other legislation.</u></p> <p>Land use <u>activities-controls</u> involving hazardous substances <u>have the potential to result in an increased risk of adverse environmental effects to those members of the public who could be exposed to the substances, and the surrounding environment may be necessary to manage the risks associated with Significant Hazardous Facilities and their potential impacts on other sensitive activities, incompatible land uses and the environment.</u></p> <p>Risks are influenced by the nature of the hazardous substances, the quantity of the substances, the effects the substance may have, the likelihood of an event occurring and which parts of the environment may be affected. An event may be an accidental release, spill, unintended chemical reaction, fire or explosion.</p> <p><u>Risks are influenced by the location of an activity and the surrounding environment. For example, hazardous</u></p>



Provision	Position	Reason	Relief Sought
		<p>that this should be changed to the adverse effects in relation to the 'risks' of natural hazards.</p> <p>The final paragraph is considered unnecessary and addressed by the other changes proposed to the chapter overview.</p>	<p><del>facilities located in areas subject to natural hazards may be exposed to greater risks of damage or failure resulting in an event involving a hazardous substance.</del></p> <p>The provisions of this chapter acknowledge the benefits of hazardous substances, while aiming to minimise the adverse effects of <del>hazardous substances</del> <u>Significant Hazardous Facilities</u> in relation to sensitive activities (i.e. residential activities, schools, places of assembly) and sensitive environments (i.e. wetlands, waterways), <del>areas of identified the risks of</del> natural hazards and cumulative effects where multiple hazardous facilities are located within proximity to each other. <u>It also seeks to minimise reverse sensitivity effects on Significant Hazardous Facilities.</u> Hazardous substances stored or used in identified natural hazards areas are separately addressed in the Natural Hazards chapter.</p> <p><del>The rules control quantities of defined hazardous substances classes that are significant enough to potentially pose a significant risk to public safety and the environment with respect to the various zones across the Kaipara District. The sites where such activities take place are defined as significant hazardous facilities. These provisions assist other legislation in the management of hazardous substances in significant quantities, taking location into account.</del></p>
HS-O1 Risks associated with hazardous substances	Support	The objective relating to the risk and benefits of hazardous substances use, storage, transport and disposal is supported by the Fuel Companies.	<b>Retain</b> HS-O1 as notified.
HS-O2 New sensitive activities	Support	The Fuel Companies support the objective to ensure that existing activities using, storing or disposing of hazardous substances are not compromised by new sensitive activities.	<b>Retain</b> HS-O2 as notified.





Provision	Position	Reason	Relief Sought
HS-P1 Hazardous facilities	Support in part	<p>Refer to detailed submission reasons provided for the deletion of the definition of “hazardous facility” and the amendment to the definition of “Significant Hazardous Facility” (SHF). Refer also to the submission reasons above on the hazardous substances chapter overview.</p> <p>The Fuel Companies support the general intent of the policy but consider that it should be refocussed on the risks associated with SHF.</p> <p>The Fuel Companies support the general intent of clause 1 that a SHF is to be separated from incompatible activities, but are concerned that the phrase “sensitive land use and infrastructure, and sensitive environments” is ambiguous and could lead to situations where a SHF is unreasonably restricted in its location. The problems with the phrase include:</p> <ul style="list-style-type: none"> <li>- “Sensitive land use” is an undefined term (cf. term “sensitive activities”);</li> <li>- In reference to “infrastructure” it is unclear if this is intended to mean all infrastructure or “sensitive infrastructure”. The latter is undefined, but in either case, infrastructure is not a sensitive activity such that it would be incompatible with a SHF.</li> <li>- Reference to “sensitive environments” is also undefined. It is assumed that a sensitive environment could mean, for example, a wetland, but a wetland environment is not an “incompatible activity”.</li> <li>- It will not be possible, in most situations, to contain the adverse effects of an accidental event within the boundaries of a site. This will be the case for an incident at any facility whether or not hazardous substances are stored at the site. For example, a fire at any commercial building will have the potential to generate off-site effects such as smoke, escalation of the event to nearby property and contaminated runoff. The relevant issue is that the risks associated with a SHF are appropriately managed taking into the nature of substances stored and the sensitivity of the surrounding environment.</li> </ul>	<p><b>Amend HS-P1 as follows:</b></p> <p><b><u>Significant</u> hazardous facilities</b></p> <p><u>Significant</u> Hazardous facilities must minimise the risk to the environment (including people and property) by:</p> <ol style="list-style-type: none"> <li>1. Siting new significant hazardous facilities in appropriate locations that are separated from incompatible activities, <del>such as including sensitive activities, land use and infrastructure, and sensitive environments;</del></li> <li>2. Designing, constructing and operating <u>significant</u> hazardous facilities in a manner that <u>avoids or adequately mitigates</u> <del>ensures the</del> adverse effects, <u>including risks, to people, property and the environment of the operation or an accidental event involving hazardous substances can be contained within the site;</u> and</li> <li>3. Disposing hazardous wastes to authorised disposal or treatment facilities that have appropriate management systems in place and avoiding the storage, processing or disposal of hazardous wastes in sensitive environments.</li> </ol>



Provision	Position	Reason	Relief Sought
HS-P2 Assessment of risk	Oppose	<p>The Fuel Companies are concerned that the policy is vague and ambiguous, for example, reference to “significant quantities” of hazardous substances and the point at which an identification and assessment of the risks are necessary. The Fuel Companies consider that Policy HS-P2 should be refocussed on the risks associated with SHF, similar to the reasons above on HS-P1, as well as the new definition submitted by the Fuel Companies for SHF. This approach is considered to be clearer as to when an activity involving the use, storage or disposal of hazardous substance is a SHF, for which an identification and assessment of the risks will need to be undertaken, and without needing to rely on complex hazardous substances quantity thresholds set out in Standard HS-S1.</p> <p>In addition, hazardous substances quantity thresholds in HS-S1 appear likely to duplicate the controls that already apply to the storage and management of these substances under the Health &amp; Safety at Work regulations. No justification has been provided to demonstrate the need for these matters to be controlled through the PDP.</p>	<p><b>Amend</b> HS-P2 as follows:</p> <p>Ensure <u>Significant Hazardous Facilities</u> <del>for the use, storage or disposal of hazardous substances in significant quantities</del> identify and assess potential adverse effects (including cumulative risk and potential effects of identified natural hazards) to prevent unacceptable levels of risk to human health, safety, property and the natural environment.</p>
HS-P3 Reverse sensitivity effects	Support	<p>The Fuel Companies support the inclusion of a policy that recognises the potential for reverse sensitivity effects in relation to lawfully established significant hazardous facilities and directly supports objectives HS-O2. A minor terminology change is required to match the definition for “sensitive activities”.</p>	<p><b>Amend</b> HAZS-P3 as follows:</p> <p>Avoid as far as practicable reverse sensitivity effects from sensitive <del>land use</del> activities on lawfully-established significant hazardous facilities.</p>
HS-R1 The use, storage or disposal of any hazardous substances	Oppose	<p>For the reasons noted on policy HS-P2 and standard HS-S1, the rule permitting hazardous substance use, storage and disposal, subject to the hazardous substances quantity thresholds in HS-S1, is opposed. This duplicates the controls through the Health &amp; Safety at Work regulations and the reasons for this duplication have not been justified through the Council's s32 analysis.</p> <p>The Fuel Companies consider that the Hazardous Substances chapter should only seek to manage Significant Hazardous Facilities where there are potential risks beyond the boundaries of a site, and therefore, HS-R1 should be deleted.</p>	<p><b>Delete</b> Rule HS-R1.</p>



Provision	Position	Reason	Relief Sought
HS-R4 Use, storage and disposal of hazardous substance subclasses 1.4, 1.5, 1.6, 6.1D, 6.1E, 9.1D and 9.2D	Oppose	As detailed in the Fuel Companies' other submission points on the hazardous substances' provisions, the approach proposed to the management of hazardous substances as a whole is opposed.,	<b>Delete</b> Rule HS-R4.
HS-R5 The storage of fuel for retail sale within a service station	Oppose	<p>Refer to detailed submission reasons provided for the deletion of the definition on "hazardous facility" and the amendment to the definition on "Significant Hazardous Facility" (SHF). Refer also to the submission reasons above on the hazardous substances chapter overview.</p> <p>Within the hazardous substances chapter, service stations is the only hazardous substance activity that is specifically listed as needing a resource consent. In all other circumstances, hazardous substances exceeding the thresholds in HS-S1 fall under the generic restricted discretionary Rule HS-R1.2. In light of the Resource Legislation Amendment Act 2017 (RLAA) and Health &amp; Safety at Work regulations, the proposed rule framework applying to service stations is not risk based and has not been justified through the Council's s32 analysis.</p> <p>The approach in the hazardous substances chapter is inconsistent with the majority of other district plans (or proposed plans) across NZ that have been notified/developed since the RLAA. In the Northland region, the Whangarei District Plan has a hazardous substances chapter but no rules (as developed through PC 91 – hazardous substances, operative October 2023), while in the Far North Proposed District Plan the hazardous substances chapter seeks to manage only SHF's.</p> <p>Under rule HS-R5, all services stations would require a resource consent, as a controlled or restricted discretionary activity, subject to the volume of underground fuel stage in General Rural, Commercial</p>	<p><b>Delete</b> HS-R5, AND <b>Add</b> a new suite of rules for Significant Hazardous Facilities, subject to the zone or overlay in which it occurs.</p>



Provision	Position	Reason	Relief Sought
		<p>and Industrial Zones, and a restricted discretionary activity in all other zones.</p> <p>The Fuel Companies oppose the control of underground storage of fuel for retail sale within a service station, as not being risk based and the restrictive approach has not been justified through a robust section 32 analysis. The retail petroleum industry has shifted towards larger underground storage volumes to increase efficiencies, enabled by large capacity, modern double-skinned fibreglass tanks. The petroleum industry is required to comply with Health and Safety at Work Act legislation and regulations, and these are considered to be sufficient to manage on and off-site risk for most hazardous storage and use activities, including the underground storage of fuel at service stations. It is therefore, not considered effective, efficient or appropriate to require resource consent for storage and use of these products which are already well controlled and are not known to generate issues that specifically require control under the RMA.</p> <p>The Fuel Companies seek that the HS-R5 is deleted. The Fuel Companies consider that the rule framework should apply specifically to SHF's, subject to the SHF definition being amended, as sought by the Fuel Companies (refer to amended definition on "Significant Hazardous Facility"), which would exclude the underground storage of petrol and diesel at service stations and commercial refuelling facilities undertaken in accordance with HSNOCOP 44 Below Ground Stationary Container Systems for Petroleum - Design and Installation and HSNOCOP 45 Below Ground Stationary Containers Systems for Petroleum – Operation.</p> <p>Any rules relating to SHF's to replace rule HS-R1, HS-R4 and HS-R5 may be similar to those in the Far North Proposed District Plan, including a permissive rule for the maintenance and repair of an existing SHF, or a new SHF in an industrial zone, and restrictive rule for SHF in other zones or overlays.</p>	
HS-MAT1 and HS-MAT2	Oppose in part	Refer to reasons given in the submission points for the deletion of the definition on "hazardous facility", the amendment to the definition on "Significant Hazardous Facility" (SHF), the other submissions of the	<b>Delete</b> HS-MAT1 and HS-MAT2 and redraft as appropriate to the new suite of significant hazardous



Provision	Position	Reason	Relief Sought
		<p>Fuel Companies on the provisions of the hazardous substances chapter.</p> <p>The matters of discretion HS-MAT1 and HS-MAT2 are generally opposed as many of the clauses relate to facility design and management matters that are already addressed by way of compliance with HSNO and HSWA.</p> <p>HS-MAT1.c. infers a requirement for hazardous facilities to have an operational or functional need to be in the location proposed. That may be relevant in some limited circumstances, but not all and will not necessarily be related to the acceptability of risk.</p> <p>HS-MAT2.b. seeks to control hazardous substances transport routes. The transport of hazardous substances is tightly controlled by the HSNO Act and the Land Transport Act and there is no need for further regulation under the PDP.</p> <p>Should a 'restricted discretionary' activity status remain following the development of a new set of rules (per the Fuel Companies broader submission points on the hazardous substances provisions) the matters of discretion should also be redrafted accordingly.</p>	<p>facility rules sought in the Fuel Companies broader submissions on the hazardous substances' provisions.</p>
HS-S1 Hazardous substances permitted activity thresholds	Oppose	<p>Consistent with the reasons given by the Fuel Companies in relation to the definition for "Significant Hazardous Facility" (SHF), and the above provisions HS-P2, HS-R1 and HS-R5, the hazardous substances quantity thresholds in HS-S1 are opposed as they duplicate the controls through the Health &amp; Safety at Work regulations. HS-S1 is essentially a rollover of the Operative District Plan, and the continuation of this approach has not been justified through the Council's section 32 analysis as the most efficient or effective way of controlling Hazardous Substances in the District. The Fuel Companies consider that if their suggested definition of Significant Hazardous Facility and associated proposed rule framework is adopted, HS-S1 would no longer be necessary.</p> <p>The Fuel Companies' proposed approach still achieves the intent sought by the Council but in a more efficient and effective way that appropriately manages risk associated with the establishment of SHF's in the District.</p>	<p><b>Delete</b> HS-S1, AND <b>Amend</b> the definition of Significant Hazardous Facility as requested in this submission.</p>



Provision	Position	Reason	Relief Sought
<b>Natural Hazards Chapter</b>			
NH-O1 The risks from natural hazards are minimised	Support	The Fuel Companies are supportive of a risk-based approach to natural hazard management.	<b>Retain</b> NH-O1 as notified.
NH-P4 Manage and mitigate natural hazard risks	Oppose in part	<p>The Fuel Companies support the intent of Policy NH-P4 but are concerned that clause 6 takes the position that hazardous substance use and storage are more sensitive to the natural hazard risks than other activities. The Fuel Companies consider that this position is not risk-based and clause 6 should be deleted for the reasons noted below.</p> <p>Some of the Fuel Companies' service stations / truck stops are located within the Natural Hazard overlays. The PDP should recognise activities that are less sensitive to natural hazard risks and/or are resilient to the effects of those risks. Infrastructure commonly found at service stations and truck stops is subject to a range of engineering design requirements (including under the Hazardous Substances and New Organisms Act 1996 (HSNO) and associated regulations), such that they are generally resilient to the effects of natural hazards. Underground petroleum storage systems are often situated in or below the watertable (as evident from retanking operations where the construction pit is dewatered to enable the works to be undertaken in dry conditions) making them resilient to the effects of floods.</p> <p>Compliance with industry best practice would, in any case, require the design of facilities to maintain their integrity and function during natural hazard events. In addition, service stations and truck stops do not attract large numbers of people at any one time, nor are they activities where people may be restricted from leaving the site in the event of a natural hazard emergency, such as would be the case for a retirement home, hospital, childcare centre or other sensitive activity.</p> <p>Additionally, it is noted that clause 1, relating to the sensitivity of the land use or development to the natural hazard, and clause 4, relating</p>	<p><b>Amend</b> NH-P4 as follows:</p> <p>Manage subdivision, land use and development so that natural hazard risk is not increased, and is minimised and mitigated, having regard to:</p> <ol style="list-style-type: none"> <li>1. The nature, frequency and scale of the natural hazard and the sensitivity of the land use or development to the natural hazard;</li> <li>2. The effects of climate change;</li> <li>3. Not increasing or transferring natural hazard risk to other people, property, infrastructure and the environment beyond the site, including through earthworks such as excavation and filling;</li> <li>4. The location of building platforms and access, types of buildings including relocatable buildings) and structures and their design;</li> <li>5. Location and design of infrastructure and services, including on-site wastewater disposal;</li> <li><del>6. Activities that involve the use and storage of hazardous substances;</del></li> <li>7. The long-term functionality and integrity of natural systems and structural mitigation assets; and</li> <li>8. Opportunities to reduce risks from natural hazards relating to existing activities.</li> </ol>



Provision	Position	Reason	Relief Sought
		to the location, type and design of buildings/structures, are appropriate to ensure the land use and development (including hazardous substance use and storage) can minimise and mitigate natural hazard risks.	
NH-P6 Manage subdivision and development in that may be affected by flood hazards and overland flow	Oppose in part	<p>The Fuel Companies support the intent of NH-P6 relating to River Flood Hazard Areas, particularly clause 3(b) which takes into account the fact that not all buildings have a floor (e.g. forecourt canopy at service stations) but can still be designed and constructed so that they are resilient to flood hazards.</p> <p>However, the Fuel Companies have a concern with clause 3(c) relating to hazardous substance storage and containment not being located where it will be inundated in a 1 in 100-year flood event. This restriction is not practical or justified. The Council's s32 report on hazardous substances recorded that "...hazardous facilities located ...in areas subject to natural hazards, may result in a greater risk" and "The PDP also controls the location of hazardous substances in identified flood risk areas. This gives effect to the Northland Regional Policy Statement (NRPS) 7.1.2, which requires district plan controls on new development in identified flood hazard areas to ensure hazardous substances will not be inundated during a 100-year flood event."</p> <p>The Northland RPS that the PDP is giving effect to became operative in May 2016. However, the Resource Legislation Amendment Act 2017 (RLAA 2017) post-dates the operative RPS and removed the explicit function of councils to control hazardous substances, which makes the operative RPS now somewhat outdated. The purpose of district plans is to assist territorial authorities to carry out their functions in order to achieve the purpose of this Act (s72 RMA), and the district plan must be prepared in accordance with its functions under section 31 (s74(1)(a) RMA. These sections of the RMA should be an overriding driver to direct the preparation of district plans where an RPS has not been changed to reflect legislative changes.</p> <p>In relation to service stations, underground fuel storage tanks are not at risk during a flood event due to compliance with regulations and</p>	<p><b>Amend NH-P6 as follows:</b></p> <p>...</p> <p>3. Within a River Flood Hazard Area:</p> <ol style="list-style-type: none"> <li>All new buildings designed to accommodate sensitive activities to have a minimum freeboard of at least 500mm above the 1 in 100-year flood height;</li> <li>New commercial and industrial buildings to have a minimum freeboard of at least 300mm above the 1 in 100-year flood event or alternatively are designed and constructed so they will be resilient to flood hazards having regard to matters including the frequency, depth and velocity of flood waters;</li> <li><del>Areas for</del> storage and containment of hazardous substances <del>to be designed</del> so that <del>they are not inundated</del> <u>the integrity of the storage method will not be compromised</u> in a 1 in 100-year flood event;</li> <li>Earthworks (other than earthworks associated with flood control works) are assessed as not diverting flood flow onto surrounding properties and not reducing flood plain storage capacity within the 1 in 10-year flood hazard area;</li> <li>Buildings, building platforms, access and services to be located and designed to minimise the need for hazard protection structures;</li> <li>The provision of safe vehicle access within the site during a flood event; and</li> </ol>





Provision	Position	Reason	Relief Sought
		industry best practice. In many cases, underground fuel storage tanks often intercept the watertable, and are therefore designed to withstand inundation on a daily basis. Therefore, these tanks are more than capable of maintaining their integrity and function during flood events. In the unlikely event that there is product loss during inundation, it is a discharge matter regulated by the regional council, but is not a natural hazard risk that is to be controlled under the district plan.	...
NH-P7 Manage subdivision and development in coastal erosion hazard areas and coastal flood hazard areas	Oppose in part	The Fuel Companies have a concern with clause 3 of the policy for the same reasons as noted in relation to Policy NH-P6.	<b>Amend</b> NH-P7 as follows: ... 3. <del>Provision is made, where relevant, for the safe</del> storage and containment of hazardous substances so that <del>they are not inundated the integrity of the storage method will not be compromised</del> in a 1 in 100-year flood event; ...
Natural hazards rules NH-R1 NH-R2 NH-R3 NH-R5 NH-R6 NH-R7 NH-R8	Support	The Fuel Companies generally support the permitted activity rules applying to structures, buildings, accessory buildings, and additions/alterations to existing buildings in river and coastal hazard areas, and seek that they be retained.	<b>Retain</b> Rules NH-R1, NH-R2, NH-R3, NH-R5, NH-R6, NH-R7 and NH-R8 as notified.
NH-R11 Earthworks	Support in part	The Fuel Companies support the permitted activity rule that provides for limited earthworks in river and coastal hazard areas. However, a minor correction is need so that the 12-month time period referenced in NH-R11.1 (a)(ii) also applies to (a)(i).	<b>Amend</b> NH-R11.1 as follows: 1. <b>Activity status:</b> Permitted <b>Where:</b> a. The area of earthworks, <u>in any 12 month period</u> , does not exceed:





Provision	Position	Reason	Relief Sought
			<ul style="list-style-type: none"> <li>i. 50m<sup>2</sup> or volume of 50m<sup>3</sup> in a High-Risk Hazard Area; or</li> <li>ii. 100m<sup>2</sup> in the Coastal Flood or River Flood Hazard Area <del>in any 12 month period</del>;</li> </ul> <p>and ...</p>
NH-R12 Significant hazardous facility in a coastal erosion hazard area, coastal flood hazard area, or river flood hazard area	Oppose	<p>For the reasons noted above on policies NH-P4 and NH-P6 relating to inundation of fuel storage tanks, the Fuel Companies position is that is unreasonable and unjustified to regulate underground fuel storage tanks within river and coastal hazard areas. For related reasons, the Fuel Companies oppose the definition for Significant Hazardous Facility and its application to underground fuel storage at service stations. The requires the definition for Significant Hazardous Facility to be amended (refer to submission points on definitions), or alternatively, the deletion of NH-R12.</p> <p>In addition, the Fuel Companies consider a non-complying activity status to be unduly onerous for hazardous facilities in all coastal erosion, coastal flood and river flood hazard areas, noting that this includes those areas at lower risk from the hazard, over a planning horizon of 100 years, and that there will be instances where such facilities may have a functional or operational need for a specific location and/or be able to be designed in a manner that the integrity of the storage method will not be compromised by the natural hazard risk. As such, a discretionary activity status is considered more appropriate.</p>	<p><b>Amend</b> the definition for Significant Hazardous Facility Amend SHF definition (refer to submission points on definitions) AND <b>Amend</b> the activity status of SHF's in the identified natural hazard areas to <b>Discretionary</b>, rather than Non-Complying</p> <p><b>OR alternatively,</b></p> <p><b>Delete</b> NH-R12.</p>
NH-R13 Infrastructure located in a coastal erosion hazard area, coastal flood hazard area, or river flood hazard area	Oppose in part	<p>Given that 'Infrastructure' is a defined term in the PDP, the Fuel Companies consider that it is confusing for this rule to apply to a different list of activities to those contained in the definition for Infrastructure.</p> <p>The Fuel Companies particularly oppose the inclusion of clause (b) electric vehicle charging stations, and (g) storage facilities, pump stations and distribution structures for liquid fuels and gas in the list of infrastructure that would require consent in a flood hazard area.</p>	<p><b>Amend</b> NH-R13.1 as follows:</p> <p><b>1. Activity status:</b> Restricted Discretionary <b>Where:</b></p> <ul style="list-style-type: none"> <li>a. Minor upgrading of aboveground infrastructure involving relocation;</li> <li><del>b. Electric vehicle charging stations;</del></li> </ul>



Provision	Position	Reason	Relief Sought
		<p>The inclusion of clause (o) is also of concern as stormwater management facilities are only defined as infrastructure where it is part of the drainage system or a network utility operation.</p> <p>Items (b) and (g) are inherently resilient to the effects of flooding and it is considered onerous to require consent for these structures in flood hazard areas. Proprietary stormwater management facilities should also not be restricted by item (o). Clause (g) could be amended by removing reference to 'storage facilities' but it remains unclear how 'distribution structures for liquid fuels and gas' differs from below ground and aboveground pipelines for the conveyance of liquid fuels and gas in clauses (e) and (f).</p> <p>The Fuel Companies request that clauses (b), (g) and (o) be deleted or amended from NH-R13.</p>	<ul style="list-style-type: none"> <li>c. Below ground electricity distribution lines;</li> <li>d. Above ground electricity distribution lines and support structures;</li> <li>e. Below ground pipelines for the conveyance of liquid fuels and gas;</li> <li>f. Aboveground pipelines for the conveyance of liquid fuels and gas;</li> <li><del>g. Storage facilities, pump stations and distribution structures for liquid fuels and gas;</del></li> <li>h. Below ground telecommunications and radiocommunications facilities, lines, cables and ducts;</li> <li>i. Telecommunication facilities not provided for in the NES-TF;</li> <li>j. Telephone exchanges, including the installation and operation of equipment inside existing telephone exchanges</li> <li>k. Self-contained power unit;</li> <li>l. Above ground pipelines for the conveyance of water, wastewater or stormwater;</li> <li>m. Ventilation facilities, drop shafts and manholes;</li> <li>n. Pump station for the conveyance of water, wastewater and stormwater;</li> <li>o. Stormwater management features <u>that are part of a network utility operation</u> including treatment, detention, retention facilities or devices, ponds, wetlands or outfall structures to service a site or multiple sites; and</li> <li>p. Renewable Electricity Generation Activities.</li> </ul>



Provision	Position	Reason	Relief Sought
<b>Part 2 – District-wide Matters / General District-Wide Matters</b>			
<b>Earthworks Chapter</b>			
EW-O1 Earthworks activities within the district	Support	The Fuel Companies support EW-O1, EW-P1 and EW-P2 to enable appropriate earthworks and manage the effects of earthworks. These provisions should be retained.	<b>Retain</b> EW-O1, EW-P1, and EW-P2 as notified.
EW-P1 Enable appropriate earthworks			
EW-P2 Manage the effects of earthworks			
Rules – Note 3	Support	The Fuel Companies are supportive of the inclusion of a note that specifically excludes the chapter rules from applying to earthworks regulated by certain national environmental standards, including the NES-CS. This will ensure there is no duplication or conflict with the regulations.	<b>Retain</b> Note 3 as notified.
EW-R1 Earthworks	Support in part	<p>The Fuel Companies support EW-R1 in part, especially that it specifically states under EW-R1.1(b) that the rule does not apply to land disturbance permitted by EW-R2.1.</p> <p>However, the Fuel Companies consider that matter of restricted discretion under EW-R1.3(j) <i>The potential for land contamination</i> is ambiguous as it strays into regional discharge matters, is in potential conflict with the permitted or controlled regulations in the NES-CS, and does not relate to matters sought through the earthworks policies.</p> <p>The Fuel Companies seek that EW-R1.3(j) is deleted as a matter of restricted discretion, particularly as clause (m) provides wide discretion relating to mitigation of any adverse effects.</p>	<p><b>Retain</b> EW-R1.1 and EW-R1.2, and <b>Amend</b> EW-R1.3 as follows:</p> <p><b>Matters over which discretion is restricted:</b></p> <ol style="list-style-type: none"> <li>The location, scale and volume of earthworks;</li> <li>The extent of exposed surfaces;</li> <li>The depth and height of cut and fill;</li> <li>The nature of filling material and whether it is compacted;</li> <li>The stability of land or structures in or on the site or adjacent sites;</li> <li>Any adverse effects on visual amenity values and character of the surrounding area;</li> </ol>



Provision	Position	Reason	Relief Sought
			<ul style="list-style-type: none"> <li>g. Any adverse effects on cultural or ecological values;</li> <li>h. The ability to contain dust, silt and sediment on site;</li> <li>i. Traffic movements and noise effects;</li> <li><del>j. The potential for land contamination;</del></li> <li>k. The risks of natural hazards, particularly flood events;</li> <li>l. Stormwater controls; and</li> <li>m. Proposed measures to mitigate any adverse effects.</li> </ul>
EW-R2 Land disturbance	Support	The Fuel Companies support the specific Permitted Activity rule for land disturbance without the requirement to comply with earthworks standards. 'Land disturbance' as defined, applies where the disturbance does not permanently alter the profile, contour, or height of the land. The Fuel Companies consider that this would appropriately provide for temporary earthworks activities where the land is fully reinstated at its completion, including for maintenance activities and installation of underground services, and retanking activities.	<b>Retain</b> EW-R2 as notified.
EW-S1 Maximum earthworks thresholds	Support in part	The Fuel Companies support the maximum earthworks thresholds in the table under EW-S1.1. EW-S1.2(d) applies an exclusion where the earthworks are for the maintenance of drains. The Fuel Companies consider that this exclusion should be extended to the maintenance of stormwater management systems and devices to ensure that stormwater management system remain effective.	<p><b>Amend</b> EW-S1.2 as follows:</p> <p><b>This standard does not apply to:</b></p> <ul style="list-style-type: none"> <li>a. Earthworks for septic tanks and associated drainage fields;</li> <li>b. Earthworks for the operation, maintenance and repair of existing walking tracks, farm tracks, driveways, roads and accessways;</li> <li>c. Earthworks for the operation, maintenance and repair of existing infrastructure; and</li> <li>d. Earthworks for the maintenance of drains <u>and stormwater management systems and devices.</u></li> </ul>



Provision	Position	Reason	Relief Sought
Standards EW-S2 EW-S3 EW-S4 EW-S5 EW-S6 EW-S7	Support	<p>The Fuel Companies support the Earthworks Standards and consider that they will appropriately manage the potential adverse effects of earthworks.</p> <p>The Fuel Companies note that EW-S7 appears to have a minor error by missing reference to the matters over which discretion is restricted. It is presumed that it should refer to the matters of discretion listed under EW-R1 as per the other earthworks standards.</p>	<p><b>Retain</b> standards EW-S2 to EW-S6 as notified, but <b>amend</b> EW-S7 as follows:</p> <p><u>3. Matters over which discretion is restricted:</u></p> <p><u>a. Refer to EW-R1.</u></p>
<b>Part 3 – Area-specific matters / Zones</b>			
<b>Commercial Zones</b>			
COMZ-R10 Electric vehicle charging stations	Support	The Fuel Companies support the provision for establishment of electric vehicle charging stations as a Permitted Activity in Commercial Zones. This is particularly supported as it contributes to reducing carbon emissions. The Fuel Companies agree that Standards for this activity are not needed in the Commercial Zones.	<b>Retain</b> COMZ-R10 as notified.
COMZ-R13 Service stations, vehicle repairs and stand-alone parking lots	Support	The Fuel Companies support a restricted discretionary activity status for new service stations in the Commercial Zone. Support is also provided for the listed matters over which discretion is restricted in COMZ-R13.2.	<b>Retain</b> COMZ-R13 and the associated matters of restricted discretion, as notified.
<b>Estuary Estates (Mangawhai Central) Special Purpose Zone</b>			
New rule EESPZ-RXX Electric vehicle charging stations	Oppose	As noted above on rule COMZ-R10, the Fuel Companies support the provision for establishment of electric vehicle charging stations as a Permitted Activity in Commercial Zones to support reductions in carbon emissions. The Estuary Estates (Mangawhai Central) Special Purpose Zone establishes two commercial sub-zones, being the Business Sub-Zone 1 and the Service Sub-Zone 7, but electric vehicle charging stations are not specifically provided for in either of these sub-zones and would potentially require a resource consent (e.g. EESPZ-R38 – non-complying activity). The Fuel Companies consider that electric vehicle charging stations should be enabled as a permitted activity in these sub-zones, consistent with COMZ-R10.	<p><b>Add</b> a new rule as follows:</p> <p><u><b>EESPZ-RXX Electric vehicle charging stations</b></u></p> <ol style="list-style-type: none"> <li><u><b>Activity status: Permitted</b></u></li> <li><u><b>Activity status when compliance not achieved: Not Applicable</b></u></li> </ol>

