
SUBMISSION ON A PROPOSED PLAN PURSUANT TO CLAUSE 6 OF SCHEDULE 1 OF THE RESOURCE MANAGEMENT ACT 1991

Local authority: Waitaki District Council

Attention: Planning Team

Email: planreview@waitaki.govt.nz

Submission on: Proposed Waitaki District Plan

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Hereafter referred to as “the **Fuel Companies**”

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SLR Project No.: 0035 – Waitaki District Plan Review



INTRODUCTION

1. Waitaki District Council (“the **Council**”) has publicly notified the Proposed Waitaki District Plan (“the **PDP**” or “the **Plan**”) pursuant to clause 5 of Schedule 1 of the Resource Management Act 1991 (“the **RMA**”).
2. 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.
3. The Fuel Companies receive, store and distribute refined petroleum products across New Zealand. In the Waitaki district (“the **district**”), the Fuel Companies' core business relates to fuel retail outlets (being service stations and truck stops).
4. 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 districts and beyond. This submission is focused on those issues that the Fuel Companies perceives may inappropriately restrict or limit its existing operations.

SCOPE OF THIS SUBMISSION

5. Schedule A details the provisions that this submission relates to, the reasons for this submission and the relief sought by this submission. The Fuel Companies support alternative relief that achieves the same outcomes.
6. In addition to the specific outcomes and relief sought by this submission, the following general relief is sought:
 - 6.1. to achieve the following:
 - a. the purpose and principles of the RMA and consistency with the relevant provisions under sections 6 to 8 of the RMA;
 - b. give effect to the Regional Policy Statements for the Otago and Canterbury Regions;
 - c. assist the Councils to carry out their functions under section 31 of the RMA;
 - d. meet the requirements of the statutory tests under section 32 of the RMA;
 - e. avoid, remedy or mitigate any relevant and identified environmental effects;
 - 6.2. 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 document that are not specifically subject of this submission but where consequential changes are required to ensure a consistent approach is taken throughout the document; and
 - 6.3. to make any other relief required to give effect to the issues raised in this submission.

PROCEDURAL MATTERS

7. The Fuel Companies could not gain an advantage in trade competition through this submission.
8. The Fuel Companies are directly affected by an effect of the subject matter of this submission that:
 - 8.1. adversely affects the environment; and
 - 8.2. does not relate to trade competition or the effects of trade competition.



9. The Fuel Companies **wish to be heard** in support of this submission.
10. If others make similar submissions, the Fuel Companies may be prepared to consider presenting a joint case with them at any hearing.

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



Miles Rowe

Team Leader Hamilton - Planning
SLR Consulting New Zealand



SCHEDULE A

Provision	Position	Reason for this submission	Relief sought by this submission (deletions in bold strikethrough and additions in bold underline)
PART 1 – INTRODUCTION AND GENERAL PROVISIONS			
Definitions			
Hazardous facility	Oppose	<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. 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 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. However, in particular circumstances, it may be appropriate that RMA controls are used, subject to robust section 32 analysis to ensure that such controls are both necessary and efficient, but the expectation is that controls on hazardous substances in RMA plans will be the exception rather than the norm.</p> <p>The type of analysis needed by Council is to identify the actual or potential activities involving hazardous substances and the off-site risk that those activities pose, the probability of a particular risk event (e.g. fire or explosion); and sensitive land uses that may require additional protection not otherwise provided for. Council should then confirm whether there is appropriate environmental protection through HSNO, HSWA or any other relevant legislation to address these matters. If not, consideration should be given to whether additional protection is required through the District Plan.</p> <p>In most circumstances, the Fuel Companies consider this analysis is likely to show that zoning and overlays, along with HSNO, HSWA or any other relevant legislation provide adequate protection to manage the risks of hazardous substances, and therefore it is unnecessary to require additional controls. For example, hazardous substances (other than domestic quantities) are usually associated with non-residential activities and zones, where there is less likelihood to experience reverse sensitivity effects from neighbouring properties where similar activities may be undertaken. Conversely, activities that use hazardous substances in large quantities in more sensitive zones (e.g. residential areas) are often non-residential activities and a resource consent would be required for such activities and the effects of any associated hazardous substance use or storage can be addressed at that stage.</p> <p>One area where the Fuel Companies recognise there is a potential land use planning gap is in relation to Major Hazard Facilities (MHF) and the potential interface with adjoining land uses. This is because these facilities are usually of such a scale that potential risks and adverse effects will extend beyond the boundary. Where effects from these facilities 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 MHF to enable the MHF to carry out operations, including maintenance and upgrades, without being unreasonably constrained by encroachment of sensitive activities.</p>	<p>Delete the definition of hazardous facility.</p> <p>AND</p> <p>Delete reference to hazardous facility within the hazardous substances chapter, including introduction, except to the extent that it is relevant to a major hazard facility (refer to submission points below),</p> <p>AND</p> <p>Amendments to policies HAZS-P1, HAZS-P3 relating to hazardous facilities/major hazard facilities (refer to submission points below),</p> <p>AND</p> <p>Delete policy HAZS-P5 and rule HAZS-R1 relating to hazardous facilities (refer to submission points below).</p>



Provision	Position	Reason for this submission	Relief sought by this submission (deletions in bold strikethrough and additions in bold underline)
		<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. However, despite there being no existing MHF in the district (refer to WorkSafe MHF public information WorkSafe), the Fuel Companies consider it appropriate risk-based response for District Plans to regulate the risk associated with existing or new MHF. The same cannot be said for other hazardous facilities where a case has not been made in the section 32 evaluation report for the level of intervention and restriction that appears in the hazardous substances chapter of the PDP. That is, a risk-based approach has not been demonstrated for hazardous facilities that are below the threshold of a MHF.</p> <p>Multiple measures are needed to address these concerns, including:</p> <ul style="list-style-type: none"> Deleting the definition of "hazardous facility", on the basis that the definitions for "hazardous substances" and "major hazard facility" and their associated use in the hazardous substances chapter are appropriate and adequate. While deletion of the definition is the Fuel Companies preferred approach, they may consider an exclusion for the underground storage of petrol and diesel used at service stations and truck stops, where this is undertaken in accordance with HSNO codes of practice (and subject to any remaining hazardous facility provisions being justified through a section 32 evaluation). Amendments to hazardous substances policies to address the management of major hazard facilities and remove restrictions on hazardous facilities in the Hazardous Substances chapter, including deletion of HAZS-P5 and HAZS-R1. 	
Reverse sensitivity	Support	The definition for "reverse sensitivity" is appropriate and should be retained.	Retain definition for reverse sensitivity as notified.
Sensitive activity	Support	The definition for "sensitive activities" is appropriate and should be retained.	Retain definition for sensitive activities as notified.
Sensitive environment	Oppose in part	<p>The Fuel Companies are concerned with clause 10 of the definition for sensitive environment, which relates to areas "within 20 metres of a waterbody". In particular, a waterbody includes groundwater, which has consequences for the way in which the provisions for sensitive environments are across the Plan.</p> <p>One such example is in the rules for the Earthworks Chapter, where earthworks are restricted within a sensitive environment. This means that all earthworks within 20m (vertically) of the watertable would trigger the need for a consent. Similarly, for rules relating to hazardous substances (notwithstanding the changes sought by the Fuel Companies to the Hazardous Substance Chapter). It does not appear to be the intent of Plan to restrict earthworks or hazardous substances in these circumstances, nor is it effects/risk based in the same way that setback is applied to a surface waterbody. This can be addressed by amending clause 10 of the definition to exclude groundwater.</p> <p>However, it is further noted that a waterbody includes wetlands, which are already regulated under the National Environmental Standard for Freshwater (NES-F), including a threshold setback for earthworks from a natural inland wetland that differs from the setback under this definition. The Regional Plans also regulate earthworks/land disturbance in proximity to rivers and streams. As a result, restrictions in the PDP relating to sensitive environments, being 20m of a waterbody, potentially duplicate or contradict the restrictions in the NES-F or Regional Plan. It may, therefore, be appropriate to delete clause 10 of the definition. If there is a need for the PDP to regulate activities, such as earthworks, then the rules should specify the type of waterbody that it applies to rather than a blanket restriction applying to all types of waterbodies.</p>	<p>Amend the definition for sensitive environment by deleting clause 10 as follows:</p> <p><i>area of land contained within any of the following areas:</i> ... 10. Within 20 metres of a waterbody ...</p> <p>OR, alternatively:</p> <p><i>area of land contained within any of the following areas:</i> ... 10. Within 20 metres of a waterbody, <u>excluding groundwater</u> ...</p>
Service station	Support	The definition for "service station" is appropriate and should be retained.	Retain definition for service station as notified.



Provision	Position	Reason for this submission	Relief sought by this submission (deletions in bold strikethrough and additions in bold underline)
Various definitions	Support	The Fuel Companies support the usage of definitions consistent with the National Planning Standard, legislation or national direction. This includes definitions for: <ul style="list-style-type: none"> contaminated land hazardous substance functional need major hazard facility operational need residual risk stormwater 	Retain definitions consistent with the National Planning Standard, legislation or national direction, including contaminated land; hazardous substance; functional need; major hazard facility; operational need, and stormwater.
PART 2 – DISTRICT WIDE MATTERS			
Strategic Direction – Urban Form and Development			
Objective SD-UFD-O3	Support	The objective is supported, in particular clause (3) and (4) to establish compatible activities, minimise effects of incompatible activities, and avoidance of potential reverse sensitivity effects.	Retain Objective SD-UFD-O3 as notified.
Energy, Infrastructure and Transport – Infrastructure			
Rule INF-R7	Support	The Fuel Companies support a permitted activity pathway for electric vehicle charging stations (EVCS) which will apply across all zones, subject to compliance with the relevant standards. The permitted rule encourages the widespread installation and operation of EVCS and thereby supporting the transition towards more sustainable transport modes and achieving emissions reductions goals across the district.	Retain Rule INF-R7 as notified.
Standard INF-S8	Support	The standard of EVCS not located within the road reserve or rail corridor are consistent with typical EVCS designs and are not expected to constrain the expansion of a EVCS network across service stations in the district.	Retain Standard INF-S8 as notified.
Standard INF-S11	Oppose in part	Standard INF-S11 applies to EVCS but is not specifically referenced in the EVCS rule INF-R7. If INF-S11 applies to rule INF-R7 then there is a need to ensure that underground services to connect the infrastructure are not caught by the setback requirement, underground services may need to be close to or cross site boundaries.	Amend Standard INF-S11 as follows: <ol style="list-style-type: none"> <i>No infrastructure must be located within a 2m setback from any internal site boundary.</i> <u>Clause 1 does not apply to underground services or utilities connecting the infrastructure.</u>
Energy, Infrastructure and Transport – Stormwater			
Stormwater chapter Introduction, STORM-O1, STORM-O2, STORM-P1 to STORM-P4, STORM-R1, STORM-R2, STORM-S1 to STORM-S3	Support	The stormwater chapter deals with stormwater management associated with subdivision and development, to achieve hydraulic neutrality and to minimise flooding effects off-site. In general, this is to be achieved through a connection to a reticulated stormwater system or on-site stormwater disposal system. The Fuel Companies consider the stormwater chapter and provisions are appropriate.	Retain the stormwater chapter and provisions, as notified.
Energy, Infrastructure and Transport – Transport			
Rule TRAN-R4 and Table 6 – high trip generator thresholds	Oppose in part	Rule TRAN-R4 permits activities that do not exceed the High Trip Generator Thresholds set out in Table 6. Table 6, in turn, restricts all drive through activities, including service stations, and as a result, service stations default to restricted discretionary activity with discretion given to the high trip generating matters listed in TRAN-P1. The Fuel Companies consider the rule and threshold are appropriate for the establishment of new service stations or activities that lead to the generation of additional traffic to/from a site, such as the installation of additional fuel dispensers. However, it is unclear how the rule and threshold are applied to existing service stations, including for new ancillary activities, and the maintenance and replacement of structures, that in themselves, have little or no change in total traffic movements. Examples include, replacing underground fuel storage tanks, replacing or installing other ancillary structures such as signage or forecourt canopies, and installing electric vehicle charging stations. Also improving vehicle site circulation and layout. The Fuel Companies consider that these matters should be excluded from the rule, or in the alternative, a corresponding exclusion to Table 6 to achieve the same outcome.	Amend Rule TRAN-R4 as follows: <i>TRAN-R4 Vehicle trip generating activities</i> <i>Activity status: Permitted</i> <i>Where:</i> <i>PER-1</i> <ol style="list-style-type: none"> <i>The thresholds set out in Table 6 – High Trip Generator Thresholds are not exceeded.</i> <u>Clause 1 does not apply to the following activities:</u> <ol style="list-style-type: none"> <u>The maintenance, replacement or repair of any buildings, structures, fuel storage tanks or underground infrastructure;</u> <u>The installation of electric vehicle charging stations and associated infrastructure;</u> or <u>Changes to site circulation, parking, signage or landscaping.</u>
Standard TRAN-S6	Support	The standard regulates the design, construction, and maintenance of site access and manoeuvring space for service stations and truck stops in accordance with NZTA RTS 13 Guidelines for Service Stations.	Retain Standard TRAN-S6 as notified.



Provision	Position	Reason for this submission	Relief sought by this submission (deletions in bold strikethrough and additions in bold underline)
Hazards and Risks – Contaminated Land			
Contaminated land chapter including introduction Objective CL-O1, Policies CL-P1 and CL-P2	Support	The Fuel Companies support the approach in the contaminated land chapter to rely upon the Resource Management (National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health) Regulations 2011 (NESCS) to regulate the management of contaminated or potentially contaminated land. The Fuel Companies support the framework of one objective and two policies but no District Plan rules. This framework supports decisioning making by the territorial authority under the NESCS.	Retain the Contaminated land chapter including introduction Objective CL-O1, Policies CL-P1 and CL-P2, as notified, subject to the minor change to CL-P1 noted below.
Policy CL-P1	Support in part	The policy is supported, with an amendment to change “sites” to “land” ensuring the policy is consistent with the rest of the chapter and overarching NESCS. In particular, the NESCS relates to the “piece of land” and may not apply to the entire site.	Amend Policy CL-P1 as follows: <i>Identify, in conjunction with the relevant Regional Council, land sites that may be subject to potential contamination as a result of historical and current land use and activities.</i>
Hazards and Risks – Hazardous Substances			
Hazardous substances introduction	Support in part	Refer to detailed reasons provided in relation to the definition on “hazardous facility”, including deletion of the definition. The Fuel Companies support introduction to the hazardous substances chapter, in so far as it applies to a major hazard facility, or the use, storage, disposal, and transportation of hazardous substances that is not dealt with by other legislation or regulations. There is some minor editing required in relation to terminology for “major hazard facility”.	Amend the introduction (3 rd paragraph) as follows: ... <i>This chapter, acknowledging that HSNO and the HSW Act manage most adverse effects associated with hazardous substances, only seeks to control the potential residual risks of major hazardous facilities and the use, storage and disposal of hazardous substances within other hazardous facilities. The District Plan is looking at effects of a low probability but a high impact, and relies on the identification of major hazardous facilities through the Major Hazard Facility threshold, which is outlined in the Health and Safety at Work (Major Hazard Facilities) Regulations 2016.</i>
Objective HAZS-O1	Support in part	Refer to detailed reasons provided in relation to the definition on “hazardous facility”, including deletion of the definition. The general intent of Objective HAZS-O1 is supported by the Fuel Companies to recognise the benefits to the district associated with hazardous substances storage and use, and minimising their risks and adverse effects on the environment and human health. However, it is suggested that objective is clarified by noting that risks and effects are to be minimised to “acceptable levels”, which is consistent with the approach taken in HAZS-P2. This will help to ensure that HAZS-O1 is a risk-based objective. In addition, it is considered the objective is about the benefits and risks of hazardous substance activities rather than the facilities and this should be reflected in the objective title.	Amend Objective HAZS-O1 as follows: <i>HAZS-O1 Hazardous facilities benefits and risks</i> <i>Recognise the benefits associated with activities involving the use, storage, disposal, and transportation of hazardous substances while ensuring that risks to, and adverse effects on the environment and human health are minimised to acceptable levels.</i>
Policy HAZS-P1	Support in part	Refer to detailed reasons provided in relation to the definition on “hazardous facility”, including deletion of the definition. The Fuel Companies generally support the intent of Policy HAZS-P1 to manage residual risk, subject to addressing the issues raised in relation to the definition of “hazardous facility” and Policy HAZS-P5. Further, HAZS-P1 should be clarified by noting that risks and effects are to be managed to “acceptable levels”, which is consistent with the approach taken in HAZS-P2 and the above change sought to HAZS-O1. Risk is inherent in the handling of hazardous substances. The only way risk can be prevented is by not using hazardous substances. On that basis an approach that seeks the prevention of risk is opposed. For similar reasons as noted on HAZS-O1, it is considered the policy is about the risks of hazardous substance activities rather than the facilities and this should be reflected in the policy title.	Amend Policy HAZS-P1, as follows: <i>HAZS-P1 Residual risk of hazardous facilities</i> <i>Enable activities involving the use, storage, disposal, and transportation of hazardous substances while protecting people, property, and the environment by preventing or managing residual risk to acceptable levels.</i>
Policy HAZS-P2	Support	Refer to detailed reasons provided in relation to the definition on “hazardous facility”, including deletion of the definition. The Fuel Companies generally support Policy HAZS-P2 relating to the quantitative risk assessment for major hazard facilities, subject to addressing the issues raised in relation to the definition on “hazardous facility” and Policies HAZS-P3 and HAZS-P5.	Retain Policy HAZS-P2, as notified.



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Policy HAZS-P3	Oppose in part	<p>Refer to detailed reasons provided in relation to the definition on “hazardous facility”, including deletion of the definition.</p> <p>The Fuel Companies generally support the intent of Policy HAZS-P3, subject to addressing the issues raised in relation to the definition on “hazardous facility” and Policy HAZS-P5. In particular, the Fuel Companies consider that the proximity areas identified through HAZS-P5 are not appropriate to apply to hazardous facilities, nor justified through the section 32 evaluation report, and should only be applied to a major hazard facility. Internalising effects for major hazard facilities is not appropriate or justified in all circumstances. For example, major hazard facilities are provided for in the General Industrial Zone (see rule HAZS-R2) with surrounding activities that are generally compatible, relatively low number of people using or working in the area, workers that typically are more accustomed to health, safety and evacuation procedures, and sensitive activities are restricted (see rule GIZ-R8, non-complying activity). In addition, internalising effects would negate the need to consider cumulative effects under clause (1) of the policy. It will be important to demonstrate that residual risk from a MHF is at a level that is acceptable in relation to surrounding land uses. However, the RMA is not a ‘no risk’ statute. It will be impractical in most cases for residual risk to be contained entirely within the site boundary.</p> <p>The location of a major hazard facility to protect the health and safety of the community should be guided by quantitative risk assessment, as referenced in HAZS-P2, e.g. the sensitive land use criteria risk contour (0.5 x 10⁻⁶), and not locating in certain specified sensitive environments unless there is demonstrated to be a functional need or operational need.</p>	<p>Amend Policy HAZS-P3, as follows:</p> <p><i>Require a new or expanding major hazard facility to be appropriately located so as to:</i></p> <ol style="list-style-type: none"> 1. <i>mitigate potential cumulative effects of locating within close proximity of another major hazard facility; and</i> 2. <i>protect the health and safety of the community by internalising effects through site layout and design ensuring risk to existing surrounding activities and land uses is at acceptable levels, as demonstrated by way of quantitative risk assessment; and</i> 3. <i>avoid locating within the following areas, unless there is demonstrated to be a functional need or operational need to be within the area or it can be demonstrated that residual risk can be managed to acceptable levels:</i> <ol style="list-style-type: none"> a. <i>sensitive environments;</i> b. <i>an area of identified natural hazard risk;</i> c. <i>community drinking water protection zones.</i>
Policy HAZS-P4	Support in part	<p>Refer to detailed reasons provided in relation to the definition on “hazardous facility”, including deletion of the definition.</p> <p>The Fuel Companies generally support Policy HAZS-P4 to address the location of sensitive activities within the quantitative risk assessment area for major hazard facilities. However, changes are sought to the policy wording to more clearly express this matter.</p>	<p>Amend Policy HAZS-P4, to read as follows:</p> <p><i>Manage the location. Avoid the establishment or expansion of sensitive activities within an area in locations identified through a quantitative risk assessment as being at unacceptable risk from of a major hazard facility.</i></p>
Policy HAZS-P5	Oppose	<p>Refer to detailed reasons provided in relation to the definition on “hazardous facility”, including deletion of the definition, and the reasons above on Policy HAZS-P3.</p> <p>HAZS-O1 is an enabling objective, while HASZ-P5 is a restrictive policy and does not achieve the objective. There are multiple problems with the hazardous facility definition and the restrictions under HAZS-P5, both of which are opposed by the Fuel Companies. The hazardous facility definition applies to a broad range of facilities that are already managed under numerous pieces of legislation or regulations.</p> <p>The Fuel Companies consider the proximity to areas identified through HAZS-P5 is not appropriate to apply to hazardous facilities, nor justified through the section 32 evaluation report and should only be applied to a major hazard facility (see submission point on HZS-P3). In particular, there is no justification for hazardous facilities, including service stations, to be prevented from the areas identified under policy HAZS-P5 and restricted under rule HAZS-R1. It is also unclear how the phrase “locating within, or adjoining, the following areas” is to be applied, such that an activity “adjoining” is a discretionary activity in all instances. For example:</p> <ul style="list-style-type: none"> - A site that is not in a flood hazard area but adjoins the hazard area. - The definition of “sensitive environment” is very broad, covering a range of identified features or areas, as well as “within 20m of a waterbody” (clause 10 of the definition). The RMA definition of waterbody is in itself very broad and includes groundwater. The consequence is that any site above the watertable is “adjoining” a waterbody, as well as the watertable on many sites being less than 20m below 	<p>Delete Policy HAZS-P5</p> <p><i>Manage use and development which uses, stores or disposes of hazardous substances within a hazardous facility, from locating within, or adjoining, the following areas, unless it can be demonstrated that the residual risk to the identified values and qualities of these areas will be avoided, or where avoidance is not practicable, remedied or mitigated:</i></p> <ol style="list-style-type: none"> 1. <i>sensitive environments and the coastal environment;</i> 2. <i>an area of identified natural hazard risk;</i> 3. <i>community drinking water protection zones;</i> 4. <i>within 250m of a sensitive activity.</i> <p>AND</p> <p>Delete the definition for hazardous facility (see earlier submission point).</p> <p>AND</p> <p>Amend Policy HAZS-P3 to address the sensitive areas (currently listed in HAZS-P5) where major hazard facilities are to be avoided unless there is a demonstrated functional need or operational need (see earlier submission point).</p> <p>AND</p> <p>Delete Rule HAZS-R1</p>



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		<p>ground level (refer also to the submission on the definition for sensitive environment).</p> <p>The Fuel Companies have a significant concern with clause (4) of HAZS-P5 relating to hazardous facilities within 250m of a sensitive activity, such as a residential activity. Service stations are an ancillary service to residential (and commercial) activities which are essential for an individual's mobility and should not be excluded from the proposed buffer area surrounding a residential activity or other sensitive activity. The Fuel Companies believe there would only be a very small number of service stations across New Zealand that would be able to achieve a 250m setback from a sensitive activity. This is a significant and unjustified restriction on urban-zoned service stations. The Fuel Companies consider that a setback requirement is generally appropriate for a major hazard facility, such as bulk fuel terminals, but to put this into context, the proposed 250m setback is greater than the setback between the major bulk fuel terminal in Wiri, Auckland and the Auckland Women's Prison. In Napier, residential activities are located immediately adjacent to the Fuel Companies' bulk storage terminals (which are MHFs under the MHF Regulations), with risk being managed to acceptable levels. In the case of the Christchurch bulk fuel terminals a 250m setback was originally suggested for the District Plan, but following the completion of detailed QRA's the necessary setback was less than 250m in all cases.</p>	
Rule HAZS-R1	Oppose	<p>The rule for the use and/or storage of hazardous substances within a hazardous facility, excluding a major hazard facility is opposed and, in particular, condition PER-1 requiring the hazardous facility to outside the areas in HAZS-P5. Refer to reasons given on Policy HAZS-P5.</p> <p>HAZS-R1 should be deleted.</p>	<p>Delete Rule HAZS-R1.</p> <p>Refer to other relief above on Policy HAZS-P5.</p>
Rule HAZS-R2	Support	<p>Refer to detailed reasons provided in relation to the definition on "hazardous facility".</p> <p>The Fuel Companies generally support the discretionary activity Rule HAZS-R2 for major hazard facilities.</p>	<p>Retain Rule HAZS-R2, as notified.</p>
Hazards and Risks – Natural Hazards			
Objective NH-O1	Support	<p>Objective NH-O1 is supported as it adopts a risk-based approach to natural hazards management.</p>	<p>Retain Objective NH-O1 as notified.</p>
Policy NH-P2	Support	<p>Policy NH-P2 is supported as it adopts a risk-based approach to natural hazards management.</p>	<p>Retain Policy NH-P2 as notified.</p>
Policy NH-P3	Oppose	<p>Policy NH-P3 applies to critical facilities, which includes "petroleum storage and supply facilities", and it is assumed that this would capture service stations and truck stops. Policy NH-P3 is an avoid policy and is opposed as it does not the adopt the same risk-based approach to natural hazards management that is found in NH-O1 and NH-P2.</p> <p>Many of the Fuel Companies' service stations and truck stops are located within some of the Natural Hazard overlays. It is important that the Plan recognises activities that are less sensitive to those risks and/or are resilient to the effects of those natural hazard 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 it is generally resilient to the effects of natural hazards. Underground petroleum storage systems (which are often located within an area with a high watertable) are also 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, 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>Amend Policy NH-P3 as follows:</p> <p>Avoid locating Manage the location of critical facilities and regionally significant infrastructure in areas with identified natural hazard risks, unless it can be demonstrated that taking into account:</p> <ol style="list-style-type: none"> 1. there are no other feasible or practicable alternatives to locating inside the area; and 2. there are the operational needs or functional needs for the location of the facility or infrastructure; and 3. the design and function are resilient to natural hazard risk. <p>OR, in the alternative,</p> <p>Amend Policy NH-P3 as follows:</p> <p>Avoid locating critical facilities and regionally significant infrastructure in areas with identified natural hazard risks Surface Fault Rupture Hazard Awareness Overlay, unless it can be demonstrated that:</p> <p>...</p> <p>OR</p>



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		The requirement in the policy that there are no other feasible or practicable alternative location does not take into account these resilience factors. An avoidance of activities from the risks of natural hazards should be limited to activities that are vulnerable to the risks of natural hazards (such as sensitive activities). In addition, there is only one natural hazards rule, NH-R12, that specifically restricts critical facilities and regionally significant infrastructure, and this rule applies only in an area of the Surface Fault Rupture Hazard Awareness Overlay, but not other natural hazard areas. This being the case, the issue is already captured by policy NH-P10 and there is no need for NH-P3.	Delete Policy NH-P3 on the basis that Policy NH-P10 applies to critical facilities and regionally significant infrastructure in the Surface Fault Rupture Hazard Awareness Overlay.
Policy NH-P5	Support	Policy NH-P5 is supported as it adopts a risk-based approach to natural hazards management.	Retain Policy NH-P5 as notified.
Policy NH-P6 Policy NH-P7	Oppose in part	For the same reasons as noted on Policy NH-P3, avoiding the inundation of spaces that store hazardous substances is not risk-based. Underground fuel storage tanks are not generally at risk during a flood event due to compliance with regulations and 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.	<p>Amend Policy NH-P6 as follows:</p> <p><i>...In all other cases, where the site is not in a High Flood Hazard Area, provide for subdivision, use and development where:</i></p> <ol style="list-style-type: none"> 1. <i>significant adverse effects on people and property are avoided; and</i> 2. <i>the use or development is not likely to suffer material damage in a flood event; and</i> 3. <i>new buildings have a floor level that will avoid inundation in a 0.5% Annual Exceedance Probability (AEP) flood event or are otherwise designed to mitigate damage to property from a flood event; and</i> 4. <i>spaces that store hazardous substances will not be inundated.</i> <p>Amend Policy NH-P7 as follows:</p> <p><i>Except as provided for in NH-P3, provide for subdivision, use and development in the Otago Flood Assessment Overlay and Waitaki River Floodplain Assessment Overlay where:</i></p> <ol style="list-style-type: none"> 1. <i>significant adverse effects on people and property are avoided; and</i> 2. <i>the use or development is not likely to suffer material damage in a flood event; and</i> 3. <i>new buildings have a floor level that will avoid inundation; and</i> 4. <i>spaces that store hazardous substances will not be inundated.</i>
Rule NH-R1 Rule NH-R2 Rule NH-R3	Oppose in part	Rules NH-R1, NH-R2 and NH-R3 permit enclosed buildings without a floor (refer PER-1, clause 3 of each rule) in the flood assessment overlays. It is unclear why this only applies to “enclosed” buildings. There are a range of other buildings without floors that are not enclosed and resilient to the effects of flooding, such as forecourt canopies. In addition, PER-1 applies to a structure, which has a broad meaning, and would capture the likes of small-scale ancillary structures, such as cabinets and signage.	<p>Amend Rules NH-R1, NH-R2 and NH-R3 (PER-1, clause 3 and PER-3, in each case) as follows:</p> <p><i>Where:</i> <i>PER-1</i> <i>The building or structure is:</i> ... 3. <i>an unenclosed</i> <i>an unenclosed</i> building without a floor; or ... <i>PER-3</i> <i>Any building or structure is not greater than 10m² in area and the cumulative area of additions does not exceed 20m² over a 10-year period.</i></p>
Rule NH-R4	Oppose	<p>The earthworks restrictions in Rule NH-R4, PER-1 (volume, fill height and cut depth) are not consistent with those provided under the NESCS. The Fuel Companies consider the Council should encourage and support the activities provided under the NESCS, including removing or replacing fuel storage systems, sampling soil and disturbing soil. It is noted the NESCS is not aimed at addressing natural hazard risks, however, the activities the NESCS provides for are restricted by their scale (volume) and duration. It is therefore considered that earthworks under the NESCS is not contrary to the approach in the natural hazards chapter of the PDP. This can be achieved through the addition of PER-3 on the rule that provides for earthworks under the NESCS.</p> <p>It is also noted that the title of the rule “Earthworks excluding land disturbance” is unclear given that the definition of earthworks includes “disturbance of land”. It is</p>	<p>Amend Rule NH-R4 through the addition of PER-3 as follows:</p> <p><i>Activity status: Permitted</i> <i>Where:</i> ... <i>PER-2</i> <i>The earthworks relate to the maintenance, repair, replacement and upgrade of natural hazard mitigation works permitted under NH-R5 or</i></p> <p><u>PER-3</u> <u>The earthworks are undertaken in accordance with the Resource Management (National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health) Regulations 2011</u></p>



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		<p>considered that this should be clarified in the rule, or in the alternative, an advice note on the rule that achieves the intent of the change sought.</p> <p>For the avoidance of doubt, the Fuel Companies consider that Rule NH-R6 (which applies to the flood overlay areas, except as provided for by NH-R4 and NH-R5) should be amended to clarify to land disturbance is a permitted activity in all flood overlays.</p>	
Rule NH-R6	Oppose in part	For the reasons noted on Rule NH-R4, it should be clarified that land disturbance is a permitted activity in all flood overlays under Rule NH-R6. In the absence of this clarification, it could be interpreted that all land disturbance is a restricted discretionary activity under Rule NH-R6.	<p>Amend Rule NH-R6 as follows:</p> <p><i>Activity status: Permitted</i> <i>Where:</i> PER-1 <i>The activity is one of the following:</i></p> <ol style="list-style-type: none"> 1. <i>primary production;</i> 2. <i>recreation or leisure activity including sports fields;</i> 3. <i>temporary events;</i> 4. <i>parking and loading areas at ground level or above;</i> 5. <i>land disturbance</i>
General District Wide Matters - Earthworks			
Rule EW-R1 to EW-R4, EW-R7 and Standard EW-S4 relating to “sensitive environment”	Oppose in part	<p>Rules EW-R1 to EW-R4 relate to activities within and/or outside of a sensitive environment. Several of these rules require compliance with Standard EW-S4 relating to earthworks within 20m of a waterbody. In addition, Rule EW-R7 is a discretionary activity for earthworks within a sensitive environment.</p> <p>As noted above in the submission on the definition for “sensitive environment”, the Fuel Companies are concerned with clause 10 of the definition, which relates to areas “within 20 metres of a waterbody”. In particular, a waterbody includes groundwater, and therefore, all earthworks within 20m (vertically) of the watertable would trigger the need for a consent. It does not appear to be the intent of Plan to restrict earthworks in these circumstances, nor is it effects/risk based in the same way that a setback is applied to a surface waterbody to control the effects of sediment runoff and other site values. It is not unusual for a construction activity to encounter groundwater for building foundations or the installation of underground services or structures. In such cases, a construction pit may need to be dewatered to enable the construction to be undertaken safely and efficiently in dry conditions. Where groundwater is contaminated by runoff from the earthworks activity, it may require treatment prior to its discharge to meet the requirement of a regional plan and/or council bylaws.</p> <p>It is not appropriate or justified for the Plan to place restrictions on earthworks where these are undertaken on land above the watertable (waterbody). This can be addressed by amending clause 10 of the definition for “sensitive environment” to exclude groundwater (refer to submission point on the definitions). If the definition is not amended then consequential amendment will be needed to Rules EW-R1 to EW-R4, EW-R7 and Standard EW-S4.</p>	<p>Amend the definition for sensitive environment as follows:</p> <p><i>area of land contained within any of the following areas:</i> ... 10. <i>Within 20 metres of a waterbody, <u>excluding groundwater</u></i> ...</p>
Rule EW-R1	Support in part	Subject to the submission point above relating to “sensitive environments”, the intent of Rule EW-R1 for general earthworks is supported, provide potential issues are addressed with Standard EW-S2 relating to depth of cut and fill (see specific submission point on EW-S2).	<p>Retain Rule EW-R1 as notified,</p> <p>AND</p> <p>Amend EW-S2, as noted in the points below.</p>
Rule EW-R2	Support	Subject to the submission point above relating to “sensitive environments”, Rule EW-R2 to provide for earthworks for certain repair and maintenance activities, such as accessways and stormwater infrastructure, is supported.	Retain Rule EW-R2 as notified.
Standard EW-S1	Support	Standard EW-S1 sets appropriate area thresholds for earthworks based on the zone/area in which it occurs. This Standard is supported.	Retain Standard EW-S1 as notified.
Standard EW-S2	Oppose	Standard EW-S2 imposes a maximum cut depth or fill height of 1.5m on all earthworks. The Fuel Companies have reviewed this Standard in the context of temporary earthworks undertaken as part of the normal maintenance, upgrade and operation of	<p>Amend Standard EW-S2 as follows:</p> <p><i>EW-S2 Maximum cut depth and fill height</i></p>



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		petroleum industry sites, including the activities permitted by the NESCS. The rationale for seeking to control the cut and fill associated with temporary earthworks is unclear and is likely to capture a range of works with limited potential for adverse effects. For example, the Standard would restrict the installation of an on-site stormwater management device where it needs to be at a depth greater than 1.5m. It is also noted that the activities permitted by the NESCS are limited by their duration. The Fuel Companies consider that these temporary earthworks are exempt from EW-S2.	<ol style="list-style-type: none"> 1. <i>The cut depth or fill height must not exceed 1.5 metres as measured vertically; and</i> 2. <i>Cut or fill supported by a retaining wall must be setback a distance at least equal to the height of the retaining wall.</i> 3. Cut and fill equal to or less than 0.5m in height is <u>The following are exempt from this standard.</u> <ol style="list-style-type: none"> a. <u>Cut and fill equal to or less than 0.5m in height.</u> b. <u>Any cut and fill undertaken in accordance with the Resource Management (National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health) Regulations 2011.</u> c. <u>Cut and fill associated with temporary earthworks of less than one month duration.</u>
Standard EW-S3	Support	Standard EW-S3 is supported.	Retain Standard EW-S3 as notified.
Standard EW-S5	Support	Standard EW-S5 is supported.	Retain Standard EW-S5 as notified.
Standard EW-S6	Support	Standard EW-S6 is supported.	Retain Standard EW-S6 as notified.
General District Wide Matters - Noise			
Noise chapter introduction, NOISE-P4, NOISE-P5, NOISE-R1, NOISE R2, NOISE-S1 to NOISE-S3	Support	The noise chapter deals with noise limits that are appropriate for the zone, reverse sensitivity effects associated with noise on existing and lawfully established activities and construction related noise. The Fuel Companies consider that the provisions in the Noise Chapter are appropriate.	Retain as notified - Noise chapter introduction, NOISE-P4, NOISE-P5, NOISE-R1, NOISE R2, NOISE-S1 to NOISE-S3.
PART 3 – AREA SPECIFIC MATTERS			
Local Centre Zone			
Policy LCZ-P3	Support	Policy LCZ-P3 addresses reverse sensitivity effects associated with noise on existing and lawfully established activities. The Fuel Companies consider that Policy LCZ-P3 is appropriate.	Retain Policy LCZ-P3 as notified.
Mixed Use Zone			
Objective MUZ-O1	Support	Objective MUZ-O1 is supported. The Fuel Companies consider that service stations are appropriate to, and support the role and function of, the range of activities in the Mixed Use Zone.	Retain Objective MUZ-O1 as notified.
Policy MUZ-P1	Support	Policy MUZ-P1 is supported. The Fuel Companies consider that service stations are appropriate and compatible to, the role and function of the range of activities in the Mixed Use Zone.	Retain Policy MUZ-P1 as notified.
Policy MUZ-P6	Support	Policy MUZ-P6 addresses reverse sensitivity effects associated with noise on existing and lawfully established activities. The Fuel Companies consider that Policy MUZ-P6 is appropriate.	Retain Policy MUZ-P6 as notified.
Policy MUZ-P8	Support	Policy MUZ-P8 addresses reverse sensitivity effects of residential activities on non-residential activities. The Fuel Companies consider that Policy MUZ-P8 is appropriate.	Retain Policy MUZ-P8 as notified.
Rule MUZ-R2	Support	Rule MUZ-R2 is supported.	Retain Rule MUZ-R2 as notified.
Town Centre Zone			
Policy TCZ-P5	Support	Policy TCZ-P5 addresses reverse sensitivity effects associated with noise on existing and lawfully established activities. The Fuel Companies consider that Policy TCZ-P5 is appropriate.	Retain Policy TCZ-P5 as notified.

