

BEFORE A HEARINGS PANEL APPOINTED BY THE TIMARU DISTRICT COUNCIL

IN THE MATTER OF the Resource Management Act 1991 (“the Act” or “the RMA”)

AND

IN THE MATTER OF the Proposed Timaru District Plan (“the PDP”)

SUBMITTER TECHNICAL FEEDBACK OF

**BP OIL NEW ZEALAND LIMITED, MOBIL OIL NEW ZEALAND LIMITED AND Z
ENERGY LIMITED (“THE FUEL COMPANIES”) (SUBMITTER AND FURTHER
SUBMITTER 196)**

DRAFT DECISIONS ON THE PROPOSED TIMARU DISTRICT PLAN

3 MARCH 2026

1. INTRODUCTION

- 1.1 This is the Fuel Companies' [196] feedback on the Panel's draft decisions on the contaminated land provisions of the PDP.

2. SCOPE OF AMENDMENTS TO CONTAMINATED LAND CL-P2 AND CL-P3

- 2.1 The Panel's draft decision is to delete CL-P3 and amend CL-P2 as set out in Appendix 3 – 22 (Panel's additions underlined and deletions ~~strike through~~):

CL-P2 Subdivision, use and development of contaminated land

Any proposal to subdivide, use or develop contaminated land must follow a best practice approach to:

- 1. manage and remediate contaminated soil to protect human health; and*
- 2. ensure the land is suitable for its intended use.*

~~*CL-P3 Remediation and management works*~~

~~*Ensure that the risks to human health from any remediation of, or any management works undertaken on, contaminated land, do not increase risks to human health from the contamination that is present, and, where possible encourage the reduction of those risks.*~~

- 2.2 The Fuel Companies acknowledge that this feedback process is limited to technical matters and, in that regard, consider there is insufficient scope to make these draft amendments as they introduce a very different policy direction for the management of contaminated land to the wording set out in either the notified version of the PDP or that sought by any submitters.
- 2.3 Specifically, the amended wording of CL-P2 reads that remediation, as well as management, is expected for any proposal to subdivide, use or develop contaminated land.
- 2.4 This is a new policy direction that is more onerous than the notified provisions, which currently recognise remediation as one method of managing contaminated land, but do not require remediation in all circumstances. This is an important distinction as, in the context of contaminated land, remediation is typically taken to require active removal of contaminated soil from a site. The Fuel Companies acknowledge "remediation" is one method of managing contaminated soil.

However, it is not required by the NES-CS¹ nor is it necessary in all cases. An example is where residual soil contaminants remain within the thresholds relevant to the continued use of land for a service station or where an approach such as monitored natural attenuation is adopted, rather than active remediation.

- 2.5 The Fuel Companies consider there is no scope to introduce a policy requirement to both manage and remediate contaminated land in all circumstances as no such requirement is included in the notified version of the PDP. CL-P2 simply requires “management” and CL-P3 requires there be no increase in risk to human health when undertaking either remediation or management works.
- 2.6 Nor did any submitter seek to introduce a more onerous requirement to both manage and remediate contaminated land:
- (a) The Fuel Companies [196.46-196.47] requested CL-P2 and CL-P3 to be retained as notified.
 - (b) Silver Fern Farms [172.21] and Alliance Group Limited [173.18] requested the replacement of “best practice” in CL-P2 with reference to guidelines or procedural manual.
 - (c) Road Metals Company Limited [169.14] and Fulton Hogan Limited [170.15] requested minor amendments to the phrasing of CL-P3.
 - (d) Royal Forest and Bird Protection Society [156.82-156.83] requested amendments to CL-P2 and CL-P3 to insert references to indigenous biodiversity and the environment.
- 2.7 The Fuel Companies acknowledge that, during the hearings, there was discussion between Mr Trevilla and Ms Westoby for the Fuel Companies and Mr Willis for the Council around potential uncertainty in CL-P3’s interpretation, specifically the meaning of “management works” in CL-P3 and potential overlap with CL-P2.
- 2.8 On that basis, and recognising that the Panel has received legal advice in relation to scope,² the Fuel Companies acknowledge there may well be scope to amend the wording of CL-P2 and CL-P3 in a way that varies from the specific wording sought in a submission’s text. However, it is the Fuel Companies understanding that, for an amendment to be treated as within scope, it would need to remain

¹ Resource Management (National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health) Regulations 2011.

² As referred to in para [424] of the Draft Decisions Report – Part 8.

consistent with the outcomes sought by submitters or relate solely to matters of certainty and clarity of interpretation.

- 2.9 In this case, the wording of CL-P2 in the draft decision results in the introduction of a more onerous policy directive to both manage and remediate contaminated land, and is, therefore, considered to be outside the scope of amendments that could reasonably be made or anticipated by the submitters.
- 2.10 As this feedback process is limited to technical matters only, the Fuel Companies consider that the most appropriate way to address this scope issue is to revert to the wording recommended in Mr Willis' s 42A report. Alternatively, if CL-P3 is to be deleted, it may be possible to amend the draft wording of CL-P2 so that it incorporates the management or remediation of contaminated land, rather than imposing a new requirement to manage and remediate contaminated land in all situations as per CL-P2 in the draft decision.
- 2.11 The Fuel Companies are hopeful that this issue can be resolved now as a technical correction. Otherwise, the only recourse to avoid a new, unduly onerous and out-of-scope requirement to both manage and remediate contaminated land in all situations would be to lodge an appeal.

3. CLOSING

- 3.1 The Fuel Companies thank the Panel for this opportunity to provide feedback and their consideration of the issues raised. The author of this statement is available to clarify or provide more information to the Panel and/or Council.

Thomas Trevilla, on behalf of the Fuel Companies

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