

**BEFORE A HEARINGS PANEL APPOINTED BY THE FAR NORTH DISTRICT COUNCIL**

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

**AND**

**IN THE MATTER OF** the submissions of bp Oil New Zealand Limited, Mobil Oil New Zealand Limited and Z Energy Limited on the Proposed Far North District Plan (Notified 2022) (“the PDP”)

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**JOINT MEMORANDUM OF EXPERT PLANNING WITNESSES FOR  
BP OIL NEW ZEALAND LIMITED, MOBIL OIL NEW ZEALAND LIMITED AND Z  
ENERGY LIMITED (“THE FUEL COMPANIES”)**

**AND**

**THE FAR NORTH DISTRICT COUNCIL (“THE COUNCIL”)**

**ON**

**EXPERT CONFERENCING FOR HEARING 1 – CONTAMINATED LAND CHAPTER**

**6 NOVEMBER 2024**

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- 1.1 At the direction of the Hearings Panel, expert conferencing took place virtually (via Microsoft Teams) on Wednesday 30 October 2024 from 1:00 pm to 1:30 pm. The session did not require an independent facilitator.
- 1.2 This Joint Memorandum (“Memorandum”) is filed in response to para [3] of Minute 11 dated 14 October 2024 regarding the Fuel Companies’ request to insert a contaminated land chapter into the PDP (submission S335.006), the recommended chapter provisions in the expert planning evidence of Thomas Trevilla for the Fuel Companies, and the response of the Reporting Officer, Sarah Trinder, in her written right of reply (“the RoR”).
- 1.3 The following expert planning witnesses (“the Witnesses”) attended the session and have jointly prepared this Memorandum:
- (a) Mr Trevilla and Sarah Westoby, planning consultants of SLR Consulting New Zealand Limited, for the Fuel Companies; and
  - (b) Ms Trinder and Kenton Baxter, Council policy planners, for the Council.
- 1.4 At the session, the Witnesses discussed the points of agreement and disagreement identified at paras [16] to [22] of the RoR. Post-session email correspondence subsequently took place between the Witnesses to confirm their opinions and prepare this Memorandum.
- 1.5 The outcomes of the expert conferencing are tabularised in Appendix A. In conclusion, the Witnesses agree on the chapter provisions that were recommended in Mr Trevilla’s evidence, subject to minor amendments to CL-P1 and CL-P2. There are no remaining points of disagreement.
- 1.6 The agreed amendments to CL-P1 and CL-P2 are set out below (insertions shown in red and underlined and deletions in ~~red and struck through~~):

*CL-P1 Identify contaminated land prior to subdivision, change of use or development by:*

- a. working with NRC to maintain the SLUR; and*
- b. requiring the investigation of contaminant risks for land with a history of land use or HAIL activity ~~that could have resulted in contamination of soil~~.*

*CL-P2 Minimise the risk to human health from the subdivision, change of use or development of contaminated land by:*

- a. requiring *at least* a good practice approach to site management of contaminated land; and
- b. ensuring the land is safe for its intended use.

1.7 An amended version of the chapter is included as Appendix B.

1.8 Please let us know if we can be of further assistance to the Hearings Panel.

**Dated** 6 November 2024



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**Thomas Trevilla**

Expert witness for the Fuel Companies



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**Sarah Westoby**

Expert witness for the Fuel Companies



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**Sarah Trinder**

Expert witness for the Council



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**Kenton Baxter**

Expert witness for the Council

**Appendices**      Appendix A: Comments and outcomes of expert conferencing

                         Appendix B: Amended version of recommended provisions for a Contaminated Land chapter

## Appendix A

### Comments and outcomes of expert conferencing

Point	Comments and Outcomes
Discussion regarding CL-O1 and the Council's functions (refer to para [17] of the RoR)	The Witnesses agree that seeking to protect human health from activities on contaminated land, as sought by CL-O1, is a function of the Council under the Act and NES-CS. The point is <b>resolved</b> .
Discussion regarding duplication with the NES-CS (refer to para [18] of the RoR)	<p>The Witnesses agree that there is no duplication with the NES-CS. Separately, the Council's experts suggested the following amendment to cl (b) of CL-P2:</p> <p><i>b. requiring the investigation of contaminant risks for land with a history <del>of land use or HAIL</del> activity <del>that could have resulted in contamination of soil.</del></i></p> <p>The Council's experts reason for this amendment is:</p> <p><i>In our opinion, the following amendment to refer to HAIL activity simplifies this policy. The HAIL list covers a range of activities and includes a catch-all clause as follows: 'Any other land that has been subject to the intentional or accidental release of a hazardous substance in sufficient quantity that it could be a risk to human health or the environment.'</i></p> <p><i>This will ensure all relevant activities are captured.</i></p> <p>The Fuel Companies' experts agree with this amendment. The point is <b>resolved</b>.</p>
Discussion regarding the use of "minimise" in CL-P2 (refer to para [19] of the RoR)	The Witnesses agree on the use of "minimise" in CL-P2. The point is <b>resolved</b> .
Discussion regarding the use of "good practice" versus "best practice" in cl (a) of CL-P2 (refer to para [20] of the RoR)	<p>The Witnesses agree on the use of "good practice" in cl (a) of CL-P2. Separately, the Council's experts suggested the following amendment to cl (a):</p> <p><i>a. requiring <b>at least</b> a good practice approach to site management of contaminated land;</i></p> <p>The Council's experts reason for this amendment is:</p> <p><i>Although we accept that 'good practice' is suitable in most cases, there are situations where 'best practice' might be required. For example, where no</i></p>

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*development should occur on contaminated land. In such cases, the Council should have the discretion to require 'best practice' where appropriate.*

The Fuel Companies' experts agree with this amendment. The point is **resolved**.

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All other chapter provisions

The Witnesses agree on all other chapter provisions. The point is **resolved**.

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## **Appendix B**

Amended version of recommended provisions for a Contaminated Land chapter

### *PART 2 – DISTRICT-WIDE MATTERS / Hazards and Risks / CL – Contaminated Land*

#### **Overview**

Contaminated land in the district can have adverse effects on human health if it is not appropriately managed. The subdivision, change of use, or development of contaminated land can expose people to increased levels of contamination.

Council has responsibilities under the RMA in relation to contaminated land. This includes observing and enforcing the National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health 2011 (NES-CS) which provides a national environmental standard for activities on pieces of land where soil may be contaminated in such a way that they pose a risk to human health. The NES-CS seeks to ensure that land affected by contaminants in soil is appropriately identified and assessed when soil disturbance and/or land development activities take place and, if necessary, remediated or the contaminants contained to make the land safe for human health and its intended use.

The rules framework of the NES-CS directs the requirement for resource consent or otherwise for activities on contaminated land. There are no independent or additional contaminated land rules in the District Plan. However, as there are no objectives or policies in the NES-CS, this chapter provides a policy framework for assessing applications which require resource consent under the NES-CS.

Northland Regional Council (NRC) has other responsibilities under the RMA in relation to contaminated land. This includes identifying and monitoring contaminated land through the Selected Land-use Register (SLUR), a regional database of sites that have been, or may have been, used for activities and industries included in the Hazardous Activities and Industries List (HAIL).

#### **Objectives**

CL-O1 Contaminated land is identified and managed so that it remains acceptable and safe for human health and its intended use.

#### **Policies**

CL-P1 Identify contaminated land prior to subdivision, change of use or development by:

- a. working with NRC to maintain the SLUR; and

- b. requiring the investigation of contaminant risks for land with a history of HAIL activity.

CL-P2 Minimise the risk to human health from the subdivision, change of use or development of contaminated land by:

- a. requiring at least a good practice approach to site management of contaminated land; and
- b. ensuring the land is safe for its intended use.

### **Rules**

1. The NES-CS provides a complete rules framework that deals with assessing and managing contaminated land. The District Plan does not contain any independent or additional set of rules.