

BEFORE A HEARINGS PANEL APPOINTED BY HUTT CITY COUNCIL

In the Matter of the Resource Management Act 1991 (RMA)

And

In the Matter of submissions by bp Oil New Zealand Limited, Mobil Oil New Zealand Limited and Z Energy Limited (**the Fuel Companies**) (S471/F32) (S468)

**LEGAL SUBMISSIONS FOR THE FUEL COMPANIES (S471/F32),
(S468)**

**HEARING STREAM 2: CONTAMINATED LAND, HAZARDOUS
SUBSTANCES, AND SEAVIEW MARINA ZONE**

INTRODUCTION

- 1 This hearing stream could not be more topical, given renewed focus on fuel supply infrastructure, amid global supply constraints. It is abundantly clear that managing resilience of fuel storage and supply, both existing and planned, is vital to the NZ economy.
- 2 Seen in this context, the Fuel Companies have lodged submissions and expert evidence broadly in support of the Hazardous Substances chapter (subject to detailed amendments, outlined below), because risk-based land use planning is a critical part of enabling fuel supply resilience for the Wellington region.
- 3 While the issues raised are topical, the Fuel Companies rely on mandatory language used by the NPS-Infrastructure 2025 (**NPS-I**), as well as orthodox legal principles, relating to management of reverse sensitivity effects, and residual risk, for fuel terminals and pipelines, to justify their approach.¹
- 4 As noted below, Policies 9 and 10 of the NPS-I are particularly directive. The Panel must **enable** the Seaview Terminals and Wharfline, as existing and planned infrastructure, in all environments; and must manage the interface between the Seaview Terminals and Wharfline and the Seaview Marina Zone, with priority being given to the Fuel Companies assets (“..must not be compromised..”).
- 5 Enabling these outcomes is directive language. It requires that incompatible activities are avoided, as recommended by Ms McPherson in evidence.
- 6 The Seaview Terminals are major hazardous facilities and have significant inherent hazard due to the storage of large quantities of

¹ Such as *Taranaki Energy Watch v South Taranaki District Council* [2018] NZEnvC 227, discussed below

petroleum products. The Fuel companies manage risk through adherence to legislative requirements, industry codes and standards and have already undertaken extensive risk reduction measures to ensure risk to existing neighbours is reduced to levels that are acceptable and as low as reasonably practicable.

- 7 The Fuel Companies cannot control activities outside the Terminal boundary that affect the acceptability or tolerability of risk. Council has a statutory duty, through its PDP process, to manage land use activities and thereby avoid unacceptable risk or reverse sensitivity effects.
- 8 The Fuel Companies concerns about reverse sensitivity impacts and managing off-site risk from development at Seaview Marina are substantially validated by the “Vision” statement produced by Mr Tim Lidgard in corporate rebuttal evidence (Mr Lidgard is the CE of Seaview Marina Ltd).² This is further discussed below.
- 9 As one of several national and regional direction instruments, the PDP must give effect to the NPS-I. This is relevant to the level of precaution or conservatism necessary to **enable** the Seaview Terminals and Wharfline, as regionally significant infrastructure, including not only existing assets but also the potential for major (or minor) upgrades.
- 10 In evaluating the duty to give effect to the NPS-I and other national and regional direction, a critical point, identified by Council legal advice recently provided in rebuttal,³ is that the **Seaview Marina is not “infrastructure”** as defined by s2 RMA.

² Undated but received on 21 May 2026

³ Appendix 2 to rebuttal evidence of Stephen Davis, author of the s42A reports for the Commercial and Mixed Use Zones and the Industrial and Seaview Marina Zones, received on 20 May 2026. Counsel adopts the legal reasoning in that opinion without repeating it.

- 11 By contrast, it is common ground that the fuel terminal is both 'infrastructure' as defined in s2 RMA, and **regionally significant infrastructure** as defined by the RPS.
- 12 This means that the Seaview Marina cannot rely on the NPS-I, and RPS Infrastructure provisions to support its intended future growth plans. However, the Fuel Companies can, and the Panel (as decision-maker) must give effect to the NPS-I directives through the PDP provisions.
- 13 The Fuel Companies evidence confirms that the PDP will not give effect to the NPS-I if it does not adopt an avoidance regime for sensitive adjacent activities. This includes bespoke policies for the Seaview Marina Zone, as well as the recommended contour (0.5×10^{-6}). It must also protect the Wharfline from incompatible adjacent activities through plan provisions. These measures are needed to avoid regulatory gaps in the PDP that fail to give effect to infrastructure provisions in the NPS-I and (relatedly) RPS.

OVERVIEW OF FUEL COMPANIES POSITION

- 14 The Fuel Companies are broadly supportive of the notified Hazardous Substances chapter, which adopts a risk-based approach to residual risk and reverse sensitivity effects associated with significant hazardous facilities.
- 15 While there is a broad measure of support, material changes are required, as outlined by Georgina McPherson, in her independent planning assessment.⁴ These relevantly include:
 - Use of the residential land use criteria risk contours (1×10^{-6}) rather than the sensitive land use risk contours (0.5×10^{-6}) as the basis for the risk management overlay (the HSRMO);

⁴ Ms McPherson has prepared 2 statements of evidence –dated 08 May 2026 & 11 May 2026, and these are relied on in full. They relate to Hearing Stream 2 (Business) and Hearing Stream 2 (Contaminated land and hazardous substances).

- including a pipeline corridor in the PDP (Hutt City Fuel Transmission Pipeline Corridor), with associated consent triggers for relevant adjacent activities;
- amending the definition of 'Reverse Sensitivity' to reflect the RPS definition;
- amendments to the Seaview Marina Zone to avoid reverse sensitivity effects on the Terminals and Wharfline. While some of these changes might appear to go 'against the grain' in a PDP structural sense, because they relate to risk management as well as reverse sensitivity, they are necessary to manage future anticipated activities for the Seaview Marina area, and this is in some ways a unique (or at least stark) circumstance where enabling the Terminals/Wharfline infrastructure must prevail over future potentially incompatible expansion plans for the Seaview Marina Zone;
- a range of technical and other drafting changes otherwise identified by Ms McPherson's evidence.

16 For the reasons set out below, and addressed in detail by Ms McPherson, supported by Ms Polich in technical expert evidence, the relief sought by the Fuel Companies should be adopted into the PDP.

BACKGROUND

17 Relevant background factors, which appear to be common ground, are that:

- The Council has a statutory function and duty under Pt 2, ss31 and 72-75 RMA to manage the reverse sensitivity effects of adjacent land use on the Seaview Terminals and Wharfline (including existing or new activities), and in parallel, to manage residual risk from bulk storage and transmission of fuels (a health and safety risk to life or risk of injury);

- As noted in Worksafe Guidance, Council equally has a duty as a PCBU⁵ under s36(2) HSWA, to consider the presence and location of Major Hazardous Facilities in their planning decisions. This forms part of the legislative context (or legislative comity, as between overlapping legislation) in which decisions are made under Schedule 1 RMA on the PDP.⁶
- The Fuel Companies have a duty to internalize their effects (so far as reasonably practicable), including under Worksafe, HSNO and MHF regulations, as well as the RMA, but the PDP must address compatibility of adjacent land uses, to manage reverse sensitivity and risk impacts.
- As the onsite operators with relevant expertise, the Fuel Companies are best placed to confirm that they have taken all relevant steps to manage and reduce risk as far as reasonably practicable and in compliance with all relevant legislation, so that the PDP is able to address residual risk. This includes HSNO, Worksafe, and related regulations.

COUNCIL'S STATUTORY FUNCTIONS

- 18 Prior case law, and Council's statutory duties and functions under Pt 2, ss31, and 72-75 RMA, confirm that the PDP has a role to play in managing residual risk and reverse sensitivity effects related to storage and distribution of hazardous substances.
- 19 HSNO, HSW legislation and the RMA all play a role in managing risk to human life and health from hazardous facilities. The regimes have similar yet distinct functions which can work together to minimise the risk to those within the hazardous facility and the wider environment. While the explicit function of local authorities to control the storage,

⁵ Person Conducting a Business or Undertaking: also referenced in Ms McPherson's evidence.

⁶ Referenced on WorkSafe website as well (under the heading 'what responsibilities do local authorities have': <https://www.worksafe.govt.nz/topic-and-industry/major-hazard-facilities/information-for-territorial-authorities/>)

use, disposal or transportation of hazardous substances was removed from sections 30 and 31 RMA in 2017, it is still mandatory for district plans to include provisions to manage the land use effects relating to hazardous substances/hazardous facilities.

- 20 Hazardous substances are managed and regulated in New Zealand under legislation that includes HSNO, HSW, RMA and CDEMA. The Panel is of course familiar with Pt 2 and s5 RMA. Other relevant purposes include:

Hazardous Substances and New Organisms Act 1996 (“HSNO”):

4 Purpose of Act

The purpose of this Act is to protect the environment, and the health and safety of people and communities, by preventing or managing the adverse effects of hazardous substances and new organisms.

Health and Safety at Work Act 2015 which includes the Health and Safety at Work (Hazardous Substances) Regulations 2017 (“HSW”)

3 Purpose

(1) The main purpose of this Act is to provide for a balanced framework to secure the health

and safety of workers and workplaces by –

a. Protecting workers and other persons against harm to their health, safety, and welfare by eliminating or minimising risks arising from work or from prescribed high-risk plant; and

...

d. Promoting the provision of advice, information, education, and training in relation to work health and safety; and

e. Securing compliance with this Act through effective and appropriate compliance and enforcement measures; and

f. Ensuring appropriate scrutiny and review of actions taken by persons performing functions or exercising powers under this Act; and

g. Providing a framework for continuous improvement and progressively higher standards of work health and safety.

(2) In furthering subsection (1)(a), regard must be had to the principle that workers and other persons should be given the highest level of protection against harm to their health, safety, and welfare from hazards and risks arising from work or from specified types of plant as is reasonably practicable

CDEMA (the Civil Defence Emergency Management Act 2002) is the primary legislation governing NZ’s disaster management framework. The s3 purpose relevantly includes:

“(a)..improve and promote the sustainable management of hazards (as that term is defined in this Act) in a way that contributes to the social, economic, cultural, and environmental well-being and safety of the public and also to the protection of property; and
(b) encourage and enable communities to achieve acceptable levels of risk (as that term is defined in this Act), including, without limitation,—
(i) identifying, assessing, and managing risks; and
(ii) consulting and communicating about risks; and
(iii) identifying and implementing cost-effective risk reduction; and
(iv) monitoring and reviewing the process; [..]

- 21 HSNO regulates the management, disposal, classification, packaging and transport of hazardous substances. The Environmental Protection Authority (**EPA**) is responsible for approving and classifying all hazardous substances for use in New Zealand under HSNO legislation. The controls imposed by the EPA manage the risks of hazardous substances and safeguard people and the environment. EPA is responsible for approving pesticides, household chemicals and other dangerous goods and substances under the HSNO legislation.
- 22 The HSW legislation and Worksafe regulations secure the health and safety of workers, workplaces and communities. Worksafe New Zealand is responsible for establishing workplace controls for hazardous substances and is the principal enforcement and guidance agency in workplaces. The HSW legislative regime sets out specific requirements/obligations but does not generally prescribe how compliance must be achieved.

- 23 The RMA is of course focused on sustainable management which means controlling the use of “natural and physical resources in a way or at a rate, which enables people and communities to provide for their social, economic, and cultural well-being and for their health and safety...”. Decisions on the use of land, in particular the location of certain activities, falls for consideration under the RMA.
- 24 While it may seem self-evident, Ms McPherson has relevantly addressed the lifeline function played by the Seaview Terminals under CDEMA.
- 25 While the above is necessarily a brief overview, it reinforces the regional significance of the Seaview Terminals and Wharfline as “infrastructure” in its RMA and wider statutory sense.
- 26 The Council retains a broad function of achieving integrated management, and may use this function to place extra controls on hazardous substance use under the RMA, if existing HSNO or HSW controls are not adequate to address the environmental effects of hazardous substances in any particular case (including managing the risk of potential effects on the local environment). The Environment Court has confirmed that the RMA and WorkSafe legislation and regulations all play a role in managing risk to human life and health from hazardous facilities.⁷ WorkSafe legislation and regulations do not control decisions made on the use of land near a workplace, meaning that the PDP can and must address both reverse sensitivity effects and managing incompatible activities.
- 27 While there is legislative complexity, these regulatory layers confirm that the RMA is intended to manage adjacent land use to address reverse sensitivity, compatibility and to avoid unreasonable constraints on Fuel Infrastructure, such as the Seaview Terminals and Wharfline.

⁷ Per *Taranaki Energy Watch (supra)*.

Reverse sensitivity effects and hazardous substances risk are related - both must be managed by the PDP

28 In rebuttal evidence, Ms Blackwell most recently suggests that:

[1.10] Ms McPherson’s recommended amendments to the PDP are requesting provisions give greater weight to reverse sensitivity considerations through the use of “avoid” and the deletion of qualifiers, such as “significant” or “inadequately managed”. Ms McPherson’s justification for this more stringent wording relies on hazardous substance risk, rather than issues related to reverse sensitivity. While I understand the overlap in these issues as they both relate to sensitive land uses, in my view, reverse sensitivity effects on industry (new activities compromising future activities) are different to hazardous substance risk from bulk fuel storage (a health and safety risk to life or risk of injury).

[1.11] I agree that hazardous substance risk for sensitive activities should be avoided, but I do not agree that this same “avoid” restriction should apply in relation to reverse sensitivity effects.

29 With respect, Ms Blackwell appears to create an artificial distinction where none exists.

30 It is of course accepted that reverse sensitivity and management of hazardous substance risk are different concepts. However, and subject always to context, they must be treated as related. The ability to manage neighbouring land use at the Seaview Marina will reduce reverse sensitivity effects, and at the same time, reduce risk to adjacent land use activities. Starting with context, Ms McPherson’s evidence has addressed this overlap, including:

● **Context**

The fuel supply network in Hutt City includes the Seaview bulk fuel storage terminals, a ~3 km joint industry wharfline pipeline from Seaview Wharf to the terminals, and a network of retail fuel sites. The terminals and wharfline are critical lifeline assets and regionally significant infrastructure, and critical to the functioning of the region as a whole.

- **Reverse sensitivity definition**

A simpler definition should be adopted that reflects both the RPS approach and related case law. This avoids unnecessary complexity (references to non-RMA effects/other legislation), uncertain language and value judgments (such as “significant”, “unreasonable”), and wording better suited to guidance as part of policies and rules rather than a definition.

- **Seaview Marina Zone risk**

More precautionary management is sought because parts of the zone (and key access/evacuation routes) are close to the fuel terminals/ wharflines and increased land based activity / constrained access may worsen emergency response/evacuation outcomes.

- **Seaview Marina Zone relief**

Changes sought include shifting policy direction from “manage/minimise significant reverse sensitivity” to **avoid** reverse sensitivity, adding discretion to consider building design/layout for risk, and making several currently permitted activities restricted discretionary with risk/reverse sensitivity as assessment matters.

- **Industrial Zones reverse sensitivity approach**

Avoidance of reverse sensitivity impacts is sought particularly in the Heavy Industrial Zone to protect primacy of industrial activities and prevent long-term “locked in” constraints.

- **Other matters**

Technical and drafting amendments are recommended.

KEY ISSUES

31 Ms McPherson has relevantly identified the following key questions:

- Whether the Hazardous Facility Risk Management Overlay (**the Overlay**) should be mapped using the residential activity individual fatality risk criterion (1×10^{-6} per year) as

recommended by the s42A report, or the sensitive activity criterion (0.5×10^{-6} per year), as sought by the Fuel Companies.⁸

- Whether to recognize, and enable, risk-based planning thresholds for the Hutt City fuel transmission wharflines. (Ms McPherson has recommended a policy and rule framework that includes a non-complying threshold trigger for sensitive activities within 40m either side of the pipeline; but has also recognized that the precise width of the corridor, and the related activity status triggers and other methods, could merit additional expert caucusing).
- The definition and policy approach to reverse sensitivity, including under policy HS-P3;
- Bespoke amendments to the Seaview Marina zone, to manage compatibility, and avoid reverse sensitivity, and unacceptable risk impacts.

32 While relying on Ms McPherson's evidence for matters of detailed drafting, these submissions address:

- Managing residual risk
- National Direction supports the Fuel Companies position;
- The proposed contour;
- Wharflines controls;
- Seaview Marina Zone;
- Outcome sought

MANAGING RESIDUAL RISK

33 It is orthodox law that District Plans must include provisions to address residual risk issues associated with hazardous substances, to the extent that these are not otherwise addressed through HSNO, Worksafe, and related legislation and regulations. This position

⁸ Evidence at [1.4]

reflects case law emerging following amendments to the RMA in 2017, particularly the *Taranaki Energy Watch* decision discussed above.

- 34 It therefore appears to be common ground⁹ that the PDP must include risk-based land use planning overlays that manage residual risk and reverse sensitivity effects from land use change and population intensification. The relevant question is the extent to which controls are included.
- 35 While the overlay approach is necessary, it is not sufficient. Some policy guidance is also required, once consent triggers are met, to guide consent applications. Otherwise the contour-based approach operates as a blunt instrument, identifying activity status but not the policy imperatives for how to address consent applications. This is particularly relevant to the Seaview Marina Zone.

NATIONAL DIRECTION SUPPORTS THE FUEL COMPANIES

- 36 While enabling infrastructure, including fuel supply resilience, makes good planning sense, it is now also a legal directive, imported through s75(3) RMA, and the NPS-I.
- 37 As a national direction instrument, the PDP must give effect to the NPS-I, particularly where directive language is used. The NPS-I relevantly requires that decision-makers must:

“..enable the efficient operation and maintenance and minor upgrade of existing infrastructure, provided that, where practicable, adverse effects are avoided, remedied or mitigated..”
(Policy 8)

“..enable new infrastructure or major upgrades of existing infrastructure activities in all environments..” **(Policy 9)**¹⁰

“..safe, efficient and effective operation, maintenance and minor upgrades, and major upgrades of existing or planned

⁹ Both in the s42A report and relevant expert evidence filed by submitters.

¹⁰ Policy 9(2) also refers to s6 RMA matters but these are not relevant to the planning issues in play.

infrastructure are not compromised by the adverse effects of other activities..” (**Policy 10**)

38 The Panel will note:

- the directive language used by the NPS-I: “enable” has been recognized by the High Court as directive language; ¹¹ and “not compromised” has a similar directive focus;
- Policy 10 deliberately refers to “safe” as well as efficient and effective delivery, thereby importing s5(2) RMA considerations (health, safety, wellbeing);
- Enabling infrastructure includes growth and development, not just status quo protection. This includes the potential for major as well as minor upgrades;
- Alongside this directive language, Policy 10(2) NPS-I sets out a range of methods to achieve these outcomes that are directly on point, such as appropriate buffers, and identification of activities that are particularly sensitive to the effects of infrastructure;
- Fuel infrastructure (network distribution) is explicitly included.

39 This national direction lens is relevant to your assessment of the competing positions put forward by the Fuel Companies / Z Energy, and (primarily) Seaview Marina as to the relevant planning framework for the proposed Hazardous Substances chapter, particularly on questions of weighting and precaution or conservatism for hazard management.

40 The underlying premise is that the PDP must manage residual risk and reverse sensitivity effects, to avoid constraints to fuel network

¹¹ *Southern Cross Healthcare Ltd v Eden Epsom Residential Protection Society Inc* [2023] NZHC 948 at [121]: read in context, ‘enable’ is more directive than other verbs used for positive outcomes such as encourage or promote.

resilience. The issue is of sufficient importance to merit bespoke provisions, including risk-based contours and policy guidance, for both the Hazardous Substances chapter, and the Seaview Marina Zone.

- Risk management contour;
- Seaview Marina Zone;
- Wharfline controls;
- Scope issues;
- Outcome sought

RISK MANAGEMENT CONTOUR

- 41 This national direction lens is relevant to your assessment of the competing positions put forward by the Fuel Companies / Z Energy, and (primarily) Seaview Marina as to the relevant planning framework for the proposed Hazardous Substances chapter, particularly on questions of weighting and precaution or conservatism for hazard management.
- 42 The issue has been simply stated, as a binary choice between a more, or less, conservative and precautionary threshold (one in half million as against one in million – 1×10^{-6} or 0.5×10^{-6}).
- 43 Ms McPherson has recommended that the more conservative (or precautionary) threshold is appropriate. In making this recommendation, it is notable that the s42A report, at the time that it was drafted, did not rely on expert technical advice, such as from a QRA expert. It is only belatedly, that a separate technical expert has provided evidence in support of Seaview Marina's position.
- 44 By contrast, Ms Polich has provided expert technical engineering evidence in support of the Fuel Companies position; with Mr de Munckhof providing a different recommendation. While it is tempting to see this as a purely evidential question, where the Panel can make a determination between two competing technical experts, nonetheless, it is submitted that enabling infrastructure, and managing incompatible activities, are the fundamental policy issues

underlying the technical dispute with, as noted, the NPS-I providing directive guidance on this issue. As with the Wharfline dispute (discussed below), it may be helpful for the Panel to direct focused expert caucusing on this topic.

SEAVIEW MARINA ZONE

- 45 Mr Lidgard, CE of Seaview Marina Ltd, in rebuttal evidence confirms that Seaview Marina Ltd wishes to substantially expand their “on-land offering”, with a “community hub” that includes supermarkets, non-marine and essential retail, office-based activities, and other population aggregating activities that are fundamentally incompatible with managing long term risk including any potential minor or major upgrades required at the Seaview Terminals and Wharfline.
- 46 While the list of on-land activities excludes sensitive activities, these are not precluded. From the perspective of a processing planner, it is vital that there is policy guidance in the Seaview Marina Zone, when assessing any future sensitive or otherwise potentially incompatible activity in the Seaview Marina Zone.
- 47 As Ms McPherson identifies in her evidence, the absence of any reference to hazardous substances risk in the policy framework for the Seaview Marina Zone means a decision could be reached to grant consent to a sensitive activity in a location where it may be subject to unacceptable risk.
- 48 This requires bespoke policy provision in the Seaview Marina Zone, to address a bespoke problem for this particular location, the only alternative being clarity that the policies in the Hazardous Substances chapter apply, and take precedence, in the event of conflict.
- 49 However, this is not seen as a sufficient signal and may lead to argument over competing directive language in the two chapters, and a requirement to ‘reconcile’ competing policy as relevantly

required by the Supreme Court in the *Port Otago* and *East-West* decisions.¹²

- 50 It is of course, far simpler to address these competing priorities now, in a manner that gives effect to the policy directives in the NPS-I, through amendments to the Seaview Marina Zone framework (as recommended by Ms McPherson).

WHARFLINE PROVISIONS

- 51 As a starting point, the s42A report appears to accept in principle that some level of protection of the pipeline is merited – it is more a question of the mechanics involved.
- 52 That is a useful recognition, as there is currently a gap in the plan provisions which do not provide any measure of protection. The corridor is not designated; and there are no relevant easements in place.
- 53 This is untenable. The pipeline poses unique hazards, beyond those provided by usual services normally located in public road. The district plan must provide some measure of protection to avoid accidental harm to the pipeline, as well as co-location of inappropriate activities. The pipeline is integral to the regional significance of the terminal itself, rather than being ancillary.
- 54 The Fuel Companies evidence confirms the extent of funding to provide greater resilience to the pipeline, in the order of millions. That resilience should be provided for in the PDP through relevant plan controls.
- 55 Ms McPherson in evidence has identified the detailed drafting recommended on behalf of the Fuel Companies, and that is adopted without being repeated.

¹² *Port Otago Ltd v EDS Inc* [2023] NZSC 112; *Royal Forest & Bird Protection Society v NZTA* [2024] NZSC 26

- 56 The s42A report makes the constructive suggestion that the parties continue to discuss and reach agreement on pipeline protections.
- 57 This might be addressed by further caucusing, preferably on the basis of directions by the Panel. For example, and without reaching a final view on the merits, the Panel could direct that the s42A report writer, Ms McPherson, and Ms Blackwell, caucus on an agreed wording in the event that the Panel decides to impose a rules framework to safely maintain and enable the Wharfline infrastructure.
- 58 This is vastly preferable to the position taken by Ms Blackwell, who appears to accept that a rules framework relating to the Wharfline is appropriate, but that it is now too late in the process to introduce such a framework, absent additional QRA information from the Fuel Companies.
- 59 As pointed out by Ms Polich in evidence, and taking the only pragmatic position, such a position is untenable. It is better to have a land use framework in place to manage a known risk from adjacent land use activity. It is also misconceived. Risk has been assessed and quantified in accordance with the requirements of the pipeline standard (AS/NZS 2885). It just hasn't been expressed through the QRA method, recently. A state of 'perfect' knowledge is not required under s32AA RMA.

OUTCOME SOUGHT

- 60 To a large extent, this planning contest has already been addressed through the NPS-I and RPS process, which confirms that fuel infrastructure is regionally significant infrastructure, and it must be enabled, including by management of incompatible activities, and by ensuring that existing infrastructure and minor or major upgrades of the Fuel Terminals and Wharfline are not compromised by neighbouring activities at Seaview Marina.

- 61 Seaview Marina Ltd cannot rely on the NPS-I, and RPS Infrastructure provisions relevant to regionally significant infrastructure, to support its intended future growth plans. However, the Fuel Companies can, and the Panel (as decision-maker) must give effect to the NPS-I directives through the PDP provisions.
- 62 The Fuel Companies evidence confirms that the PDP will not give effect to the NPS-I if it does not adopt an avoidance regime for sensitive adjacent activities. This includes bespoke policies for the Seaview Marina Zone, as well as the recommended contour (0.5 x 10-6). The PDP must also protect the Wharfline from incompatible adjacent activities through plan provisions. These measures are needed to avoid regulatory gaps in the PDP that fail to give effect to infrastructure provisions in the NPS-I and (relatedly) RPS.
- 63 It is therefore submitted that the relief sought by the Fuel Companies should be adopted. Finally, and for clarity, should the Panel consider it necessary, then the Fuel Companies would consent to a direction for expert caucusing, on the narrow issues identified above, to assist the Panel to reach a final view.

Dated this 22nd May 2026



**Rob Enright
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National Policy Statement for Infrastructure 2025

December 2025



Ministry for the
Environment
Manatū Mō Te Taiao



Te Kāwanatanga o Aotearoa
New Zealand Government

Authority

This National Policy Statement was approved by the Governor-General under section 52(2) of the Resource Management Act 1991 on 15 December 2025, and is published by the Minister for the Environment under section 52(3) of that Act.

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Part 1: Preliminary provisions

1.1 Title

- (1) This is the National Policy Statement for Infrastructure 2025.

1.2 Commencement

- (1) This National Policy Statement comes into force on 15 January 2026.
- (2) See [Part 3](#) for timeframes for giving effect to this National Policy Statement.

1.3 Application

- (1) This National Policy Statement applies to all infrastructure activities and infrastructure supporting activities except:
 - (a) renewable electricity generation activities and assets managed under the National Policy Statement for Renewable Electricity Generation 2011; and
 - (b) the electricity transmission network and electricity distribution network activities and assets managed under the National Policy Statement for Electricity Transmission 2008 and its amendments.

1.4 Interpretation

- (1) In this National Policy Statement:

Act means the Resource Management Act 1991

additional infrastructure includes:

- (a) a relevant school or institution as defined in the Education and Training Act 2020;
- (b) a health facility operated by Health New Zealand to meet its obligations under the Pae Ora (Healthy Futures) Act 2022;
- (c) fire and emergency services facilities;
- (d) defence facilities operated by the New Zealand Defence Force to meet its obligations under the Defence Act 1990;
- (e) correction facilities operated by the Department of Corrections to meet its obligations under the Corrections Act 2004;
- (f) a stormwater network;
- (g) resource recovery or waste disposal facilities; and
- (h) flood control and protection works carried out by, or on behalf, of a local authority.

ancillary infrastructure activities mean an activity that supports and is subsidiary to an infrastructure activity, including but not limited to:

- (a) vegetation clearance and tree trimming;
- (b) earthworks and land disturbance;

- (c) construction, maintenance, repair and upgrading of access tracks, bridges and culverts; and
- (d) power supply and telecommunications

buffer means an overlay, a specific control layer, or rules in a district plan used to manage the effects of activities that may be sensitive or incompatible with, or adversely affect, infrastructure activities, and may include restrictions on those activities or measures to manage the effects of infrastructure on those activities

decision-maker means any persons exercising functions or powers under the Act

existing infrastructure means infrastructure that is lawfully established and constructed

infrastructure includes all infrastructure as defined by the Act and additional infrastructure as defined in this National Policy Statement

infrastructure activities mean the construction, operation, maintenance, upgrade and removal of infrastructure and all ancillary infrastructure activities, unless otherwise specified, and include all physical components and assets associated with the infrastructure activity

infrastructure supporting activities mean activities that are not ancillary infrastructure activities but that are needed to directly support infrastructure activities, and may include quarrying activities

maintenance and minor upgrade includes work undertaken to ensure the effective and efficient operation and performance of existing infrastructure, and includes:

- (a) activities associated with the maintenance, renewal or repair of existing infrastructure, including all relevant ancillary activities; or
- (b) replacement, or renewal of, existing infrastructure with the modern equivalent equipment or asset, which may not be 'like for like'; or
- (c) works necessary to continue to deliver the same or similar level of infrastructure services or to improve resilience; or
- (d) other upgrades of existing infrastructure where the adverse effects are relative to those associated with the existing infrastructure

major upgrade means all upgrades of existing infrastructure that are not maintenance and minor upgrade

planned infrastructure means infrastructure that is identified in a strategic planning document as defined in this National Policy Statement

resilience means the capacity of infrastructure to absorb and recover from a shock or disruption, or adapt to changing conditions, while retaining an appropriate level of service as determined by the infrastructure provider

sensitive activities include residential activities (including papakāinga, visitor accommodation and retirement accommodation), care facilities, childcare facilities, schools, hospitals, custodial or supervised accommodation where residents are detained on site, marae or place of worship

stormwater network means the infrastructure and processes that are used to collect, treat, drain, store, reuse or discharge stormwater in an urban area; and includes:

- (a) an overland flow path;
- (b) green infrastructure that delivers stormwater services; and
- (c) watercourses that are part of, or related to, the infrastructure described in paragraph (a)

strategic planning document includes:

- (a) future development strategies prepared under the National Policy Statement on Urban Development 2020;
- (b) any non-statutory growth plan or growth strategy adopted by local authority resolution;
- (c) long-term plans and infrastructure strategies adopted under the Local Government Act 2002;
- (d) regional or national land transport plans approved under the Land Transport Management Act 2003; and
- (e) water service delivery plans adopted under the Local Government (Water Services) Act 2025

upgrading infrastructure means increasing the capacity, level of service, efficiency, safety, security, resilience, effectiveness or longevity of existing infrastructure and includes the replacement, renewal, addition, expansion and intensification of existing infrastructure.

- (2) Terms defined in the Act and used in the National Policy Statement have the meaning in the Act, unless otherwise specified.
- (3) Terms defined in the National Planning Standards issued under section 58E of the Act and used in this National Policy Statement have the meanings in that Standard, unless otherwise specified.

1.5 Incorporation by reference

- (1) Clause 2(1) of Schedule 1AA of the Act does not apply to any material incorporated by reference in this National Policy Statement.

Part 2: Objective and policies

2.1 Objective

- (1) The objective of this National Policy Statement is to:
 - (a) ensure the national, regional and local benefits of infrastructure are provided for;
 - (b) enable infrastructure to support the social, economic and cultural wellbeing of people and communities and their health and safety;

- (c) enable infrastructure to support the development and change of urban and rural environments to meet the diverse and changing needs of present and future generations;
- (d) ensure infrastructure is well-functioning, resilient and compatible, as far as practicable, with other activities; and
- (e) ensure infrastructure is delivered in a timely and efficient manner while managing adverse effects from or on infrastructure.

2.2 Policies

Policy 1: Providing for the benefits of infrastructure

- (1) Decision-makers must ensure that the national, regional or local benefits of infrastructure, relative to any localised adverse effects on the environment, are recognised and provided for.
- (2) Decision-makers must recognise that the benefits of infrastructure include:
 - (a) providing for the social, cultural and economic wellbeing of present and future generations;
 - (b) creating, supporting and enhancing well-functioning urban and rural environments;
 - (c) supporting sufficient development capacity to meet demand for housing and business land;
 - (d) providing services that are essential to support human life and the development, growth and functioning of districts, regions, New Zealand and the economy;
 - (e) helping to protect and restore the natural environment;
 - (f) supporting New Zealand's emissions reduction targets and mitigating the effects of climate change; and
 - (g) reducing the risks from, and improving resilience to, natural hazards and climate change.
- (3) Decision-makers must recognise:
 - (a) the significant risks to, and impacts on, public safety, the wellbeing of people and communities, and the environment that may occur when infrastructure services are compromised; and
 - (b) that infrastructure networks can be both independent and interconnected.

Policy 2: Operational need or functional need of infrastructure to be in particular locations and environments

- (1) Decision-makers must recognise that infrastructure may have an operational need or functional need to operate in, be located in, or traverse particular locations and environments.
- (2) Decision-makers must recognise that the operational need or functional need of infrastructure includes, but is not limited to, the need to:

- (a) provide services to people and communities in a timely, effective and efficient manner;
- (b) operate effectively and efficiently as linear and/or interconnected infrastructure networks within and across district and regional boundaries;
- (c) access or connect to particular natural or physical resources, including other infrastructure;
- (d) be accessible so infrastructure activities can be undertaken effectively and efficiently;
- (e) locate where the services are required, including in areas at risk to natural hazards, whether the infrastructure has been spatially identified in advance; and
- (f) manage risks from natural hazards.

Policy 3: Considering spatial planning

- (1) Decision-makers must:
 - (a) have regard to the extent to which the infrastructure has been identified within a strategic planning document, while recognising that not all infrastructure can be spatially identified in advance; and
 - (b) consider relevant spatial plans and master plans prepared by the infrastructure provider and provided to the decision-maker.

Policy 4: Enabling the efficient and timely operation and delivery of infrastructure activities

- (1) Decision-makers must:
 - (a) enable the efficient and timely delivery of infrastructure activities;
 - (b) enable cross-boundary infrastructure networks;
 - (c) provide flexibility for infrastructure providers to use new or innovative technologies and methods to improve the delivery of infrastructure services and/or improve environmental outcomes;
 - (d) enable opportunities to make more effective use of existing infrastructure;
 - (e) consider opportunities for continuous improvement in service delivery and environmental outcomes when renewing or replacing resource consents; and
 - (f) enable the upgrading of infrastructure where this will:
 - (i) improve the resilience of infrastructure to the risks from natural hazards and effects of climate change;
 - (ii) maintain or improve its level of infrastructure service, including to meet increasing demand; or
 - (iii) improve environmental outcomes.
- (2) Decision-makers must:
 - (a) recognise it is the role of the infrastructure provider to identify the preferred location for the infrastructure activity; and

- (b) have regard to existing information and assessments undertaken by the infrastructure provider, including, but not limited to, information prepared using the Better Business Cases methodology developed by The Treasury New Zealand, infrastructure strategies prepared under the Local Government Act 2002, or the Infrastructure Priorities Programme developed by New Zealand Infrastructure Commission Te Waihanga.

Policy 5: Recognising and providing for infrastructure supporting activities

- (1) Decision-makers must recognise and provide for the role of infrastructure supporting activities, including by:
 - (a) recognising the importance of infrastructure supporting activities to enable the benefits of infrastructure activities to be realised;
 - (b) recognising the operational need or functional need of some infrastructure supporting activities, including supporting quarrying activities to operate in, be located in, or traverse particular environments and locations; and
 - (c) enabling the timely delivery of infrastructure supporting activities.

Policy 6: Recognising and providing for Māori interests

- (1) Decision-makers must recognise and provide for Māori interests in relation to infrastructure activities and infrastructure supporting activities, including by:
 - (a) taking into account the outcome of any engagement with tangata whenua on any relevant resource consent, notice of requirement, or request for a private plan change;
 - (b) recognising the opportunities tangata whenua may have in developing and operating their own infrastructure at any scale or in partnership; and
 - (c) local authorities:
 - (i) providing opportunities for tangata whenua involvement where infrastructure and infrastructure supporting activities may affect a site of significance or issue of cultural significance to Māori; and
 - (ii) operating in a way that is consistent with any relevant iwi participation legislation or Mana Whakahono ā Rohe.

Policy 7: Assessing and managing the effects of proposed infrastructure activities

- (1) When assessing and managing the effects of infrastructure activities, decision-makers must:
 - (a) have regard to the extent to which adverse effects have been avoided, remedied or mitigated through the selection of the route, site or method of undertaking the work;
 - (b) consider the technical and operational requirements and constraints of infrastructure activities;

- (c) take into account the extent to which the effects of the infrastructure activities are different in scale, intensity, duration and frequency from the effects of existing infrastructure;
- (d) take into account relevant international standards (that are recognised or used in New Zealand), national standards and recognised best practice standards and methodologies to assess and manage adverse effects; and
- (e) ensure that the mitigation measures and consent conditions are proportionate to the scale of adverse effects generated by the activity.

Policy 8: Operation, maintenance and minor upgrade of existing infrastructure

- (1) Decision-makers must enable the efficient operation and maintenance and minor upgrade of existing infrastructure, provided that, where practicable, adverse effects are avoided, remedied or mitigated.

Policy 9: Managing the effects of new infrastructure and major upgrades

- (1) Decision-makers must enable new infrastructure or major upgrades of existing infrastructure activities in all environments.
- (2) Where infrastructure activities are proposed to locate in or are likely to have adverse effects on environments and values provided for in section 6 of the Act, the provisions of this policy must be read alongside other relevant national direction, regional policy statements and regional and district plans.
- (3) Where (2) does not apply, the adverse effects of new infrastructure and major upgrades must be, where practicable, avoided, remedied or mitigated.

Policy 10: Planning for and managing the interface and compatibility of infrastructure with other activities

- (1) Decision-makers on planning instruments must manage the interface between existing and planned infrastructure and other activities to ensure:
 - (a) infrastructure and other activities are as compatible as practicable;
 - (b) the safe, efficient and effective operation, maintenance and minor upgrades, and major upgrades of existing or planned infrastructure are not compromised by the adverse effects of other activities; and
 - (c) infrastructure activities that are compatible with each other are co-located, while recognising that some types of infrastructure are not compatible.
- (2) Decision-makers on planning instruments must:
 - (a) engage with infrastructure providers to:
 - (i) understand their existing and planned infrastructure activities and medium to long-term plans;
 - (ii) identify appropriate buffers and other methods to protect existing and planned infrastructure from the adverse effects of new or intensified sensitive and incompatible activities, including direct effects, reverse sensitivity effects, and risks to health and safety;

- (iii) support the strategic integration of infrastructure with land use activities;
- (b) identify:
 - (i) activities that are particularly sensitive to the effects of infrastructure;
 - (ii) activities that are compatible with infrastructure, or potentially compatible with appropriate buffers, design standards or mitigation measures;
 - (iii) infrastructure activities that are sensitive to the effects of other infrastructure;
- (c) apply a range of methods, including, where appropriate:
 - (i) the use of buffers in plans to manage sensitive activities, including new or intensified sensitive activities, and incompatible activities near infrastructure;
 - (ii) design standards to manage the effects of infrastructure on other activities;
 - (iii) special purpose zoning and other spatial-planning layers; and
- (d) ensure that measures to avoid, remedy or mitigate the effects of other activities on infrastructure are consistent with relevant international standards (that are recognised or used in New Zealand), national standards and recognised best practice standards and methodologies.

Policy 11: Assessing and managing the interface between infrastructure and other activities

- (1) When assessing and managing the interface between existing and planned infrastructure with other activities, including new or intensified sensitive activities, through planning instruments, decision-makers must:
 - (a) recognise that noise, vibration, dust and visual effects are all typical effects associated with infrastructure activities that can be managed where practicable but not completely avoided;
 - (b) recognise that:
 - (i) amenity values change due to a range of factors;
 - (ii) changes in amenity values from infrastructure activities can be necessary to achieve well-functioning urban and rural environments; and
 - (c) apply the general principle that the primary responsibility for managing adverse effects is on the new activity (including infrastructure) while allowing flexibility for site- and project-specific circumstances.

Part 3: Timing

3.1 Timing

- (1) Decision-makers must give effect to this National Policy Statement on and from the commencement date.

Made at Wellington on 15 December 2025.

Hon Chris Bishop
For the Minister for the Environment

Explanatory note

This note is not part of the National Policy Statement for Infrastructure but is intended to indicate its general effect.

This National Policy Statement recognises infrastructure as a matter of national significance under the Resource Management Act 1991 (the Act). It provides national direction to support the development, maintenance and upgrade of infrastructure across New Zealand.

New Zealand needs to invest in more infrastructure to grow the economy, support new housing development, increase energy efficiency, improve resilience and achieve better environmental outcomes.

This National Policy Statement applies to all decisions made under the Act affecting the operation, maintenance, renewal and upgrade of existing infrastructure, and to the development of new infrastructure.

This National Policy Statement does not apply to:

- renewable electricity generation activities and assets managed under the National Policy Statement for Renewable Electricity Generation 2011
- the electricity transmission network and electricity distribution network activities and assets managed under the National Policy Statement for Electricity Transmission 2008 and its amendments
- the allocation and prioritisation of freshwater because these are matters for regional councils to address in a catchment or regional context.

No national policy statement overrides another. Each national policy statement must be applied to the relevant decision-making process.

In relation to new infrastructure and major upgrades, the enabling policy applies to all environments. However, it must be read alongside other national direction and local authority planning documents that govern section 6 environments and values of the Act. Where section 6 environments and values are not affected, the adverse effects of new infrastructure and major upgrades must be, where practicable, avoided, remedied or mitigated.

This National Policy Statement is to be applied by all persons exercising powers and functions under the Act. The objective and policies are intended to guide decision-makers in making decisions on the determination of resource consent applications, in considering a requirement for a designation or a heritage order, in considering an application for a water conservation order and when exercising other relevant powers as required by the Act. The objective and policies will also provide guidance for local authorities in relation to plan making.

In applying this National Policy Statement, local authorities should be aware of their obligations with regard to other legislation, including Te Ture Whenua Māori Act 1993, the Local Government Act 2002, Treaty settlement legislation, iwi participation legislation and the Treaty of Waitangi. Local authorities should also be aware of their obligations in any Mana Whakahono ā Rohe agreement they may have with relevant hapū and iwi.

In August 2025, the Government passed an amendment to the Act that introduced a requirement to stop most plan making under the Act, unless it was subject to an exemption. This 'plan stop' amendment suspends the requirement to review plans and policy statements and prevents notification of new plan or policy statement changes or variations until the end of 2027, when the new resource management system will be in effect.

Due to the plan stop amendment, plans and policy statements will not be updated to give effect to this National Policy Statement (unless a relevant exemption applies).

This is secondary legislation issued under the authority of the [Legislation Act 2019](#).

Title	National Policy Statement for Infrastructure 2025
Principal or amendment	Principal
Consolidated version	No
Empowering Act and provisions	Resource Management Act 1991, section 52(2)
Replacement empowering Act and provisions	N/A
Maker name	Minister for the Environment
Administering agency	Ministry for the Environment
Date made	15 December 2025
Publication date	18 December 2025
Notification date	18 December 2025
Commencement date	15 January 2026
End date (when applicable)	N/A
Consolidation as at date	N/A
Related instruments	N/A