

21 June 2024

SLR Ref No.: Submitter 56 - Fuel Companies - Hearing Statement for Hearing Tranche 1 v1.0

Attention: Kayla Hemara, Hearing Administrator
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Via email: kayla.hemara@waitomo.govt.nz

SLR Project No.: 810.V08009.00001

RE: Proposed Waitomo District Plan - Hearing Tranche 1 - Hearing Statement of the Fuel Companies (Submitter 56)

Introduction

1. This hearing statement is prepared on behalf of bp Oil New Zealand Limited and Z Energy Limited (the Fuel Companies) on Hearing Tranche 1 for the Proposed Waitomo District Plan (the PDP).
2. This hearing statement represents the views of the Fuel Companies and is not expert evidence. The Fuel Companies will not be attending the hearing but request that this hearing statement be stabled before the Hearings Panel.
3. The Fuel Companies have an interest in the PDP to the extent that it relates to, or impacts on, their sites and activities in the Waitomo District.
4. The recommendations of the section 42A reports on the contaminated land, hazardous substances, natural hazards and earthworks topics, all prepared by Mr Alex Bell of the Waitomo District Council and dated 7 June 2024, have been reviewed.
5. Overall, the Fuel Companies are of the view that Mr Bell's recommendations are generally appropriate but seek further clarification regarding Rule EW-R7.

Earthworks

6. The Fuel Companies made the following submissions on the PDP:
 - a. retain Rule EW-R6 as notified (56.10); and
 - b. amend Rule EW-R7 to exempt land disturbance associated with the replacement and/or removal of underground fuel storage systems and drainage devices (56.11).
7. In relation to Rule EW-R6, Mr Bell recommends that the Fuel Companies' submissions 56.10 is accepted. The Fuel Companies support this recommendation.
8. In relation to Rule EW-R7, which specifies a maximum permitted cut depth or fill height for earthworks, the Fuel Companies' submission 56.11 requested the following amendments to the rule exclusion (additions underlined and deletions ~~struckthrough~~):

This rule does not apply to:

(a) Lawfully established underground tanks (excluding underground fuel storage systems) and septic systems where the replacement is 'like for like'. That is a cut or fill that is in the

same location and the effects are the same or similar in character, intensity and scale to those that previously existed; and

(b) Land disturbance associated with the replacement and/or removal of underground fuel storage systems and drainage devices.

9. The Fuel Companies' reasoning was that underground fuel storage systems and drainage devices should have their own exclusion as the tanks or devices may need to be in a different location than the existing due to operational or site requirements and may therefore not necessarily fall to be considered as 'like for like'.
10. Mr Bell recommends that the Fuel Companies' submission 56.11 is rejected with his reasoning set out in para [81]:

81. It is considered that the amendment to exempt underground fuel storage systems from this rule would not be appropriate, as it provides too much discretion in terms of location (i.e. ability to locate outside of the existing location on-site and relocate elsewhere on-site), and would mean Council would have no control in zones where it would need to control effects associated with tank removal, or tank location i.e. commercial and industrial zones. The purpose of the rule is to allow for 'like to like' replacement. Also, it is considered that removing and replacing fuel storage systems is also controlled under the Resource Management (National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health) Regulations 2011.
11. The Fuel Companies accept Mr Bell's recommendation. The Fuel Companies do, however, seek confirmation from the Council that the 'like for like' replacement of drainage devices / systems is also exempt. This is because the purpose of the rule is to manage the adverse effects of earthworks on stability, hydrology and natural hazard risks, and there is no fundamental difference in earthworks effects from the replacement of drainage devices / systems versus the replacement of underground tanks and septic systems.

Hazardous Substances

12. The Fuel Companies made the following submission on the PDP:
 - a. retain the Hazardous Substances chapter overview, Objective HS-O1, Policies HS-P1 to HS-P4, and Rules HS-R1 and HS-R2 as notified (56.01).
13. Mr Bell recommends that the Fuel Companies' submission 56.01 is accepted. The Fuel Companies support this recommendation.

Natural Hazards

14. The Fuel Companies made the following submissions on the PDP:
 - a. retain Policy NH-P4 as notified (56.06);
 - b. amend Policy NH-P5 to replace "land disturbance" with "earthworks" under clause (1) (56.07);
 - c. amend Rule NH-R5 to insert "Non-habitable accessory buildings or shipping containers" into the rule title (56.08); and
 - d. retain Rule NH-R6 as notified (56.09).
15. Mr Bell recommends that the Fuel Companies' submissions 56.06, 56.07 and 56.08 are accepted. The Fuel Companies support these recommendations.



16. Mr Bell recommends that the Fuel Companies' submission 56.09 is rejected as, based on the Ministry of Education's submission 24.23, he recommends the insertion of an additional matter of discretion (additions underlined):

(h) If the earthworks will enable an activity that has a functional or operational need to be located within the Building Platform Suitability Area C.

17. The Fuel Companies support these recommendations and the insertion of this additional matter of discretion (h).

Contaminated Land

18. The Fuel Companies made the following submission on the PDP:

- a. retain the Contaminated Land chapter overview, Objective CL-O1, and Policies CL-P1 and CL-P2 as notified (56.12).

19. Mr Bell recommends that the Fuel Companies' submission 56.12 is accepted. The Fuel Companies support this recommendation.

Concluding Statement

20. In summary:

- a. the Fuel Companies support Mr Bell's recommendations on their submissions 56.01, 56.06, 56.07, 56.08, 56.09, 56.10 and 56.12; and
- b. the Fuel Companies accept Mr Bell's recommendation on their submission 56.11 but seek confirmation from the Council that the 'like for like' replacement of drainage devices / systems is exempt from Rule EW-R7.

21. Thank you for your time and acknowledgement of the issues raised in the submissions of the Fuel Companies. Please do not hesitate to contact the writer should you wish to clarify any matters addressed herein.

Regards,

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