

**FURTHER SUBMISSION ON PROPOSED PLAN CHANGE 91 HAZARDOUS  
SUBSTANCES TO THE WHANGAREI DISTRICT PLAN**

**To:** Whangarei District Council  
Private Bag 9023  
Whangarei 0148  
By email: *mailroom@wdc.govt.nz*

**Name of Submitter:** Channel Infrastructure NZ Limited (“Channel Infrastructure”)

**Address for Service:** c/- ChanceryGreen  
PO Box 47516  
Ponsonby 1144  
Attention: Chris Simmons / Ebony Ellis  
*chris.simmons@chancerygreen.com /  
ebony.ellis@chancerygreen.com*

**INTRODUCTION**

1. This is a further submission by Channel Infrastructure on proposed plan change 91 to the Whangarei District Plan (“PC91”).
2. Channel Infrastructure made an initial submission on PC91.<sup>1</sup>
3. Channel Infrastructure has an interest in PC91 that is greater than the interest the general public has.
4. Channel Infrastructure, formerly named Refining NZ, is New Zealand’s leading fuel infrastructure company. Channel Infrastructure owns and operates the Marsden Point Import Terminal.
5. Operations at the Marsden Point Import Terminal involve the use and storage of hazardous substances.
6. Channel Infrastructure also operates the 170km long high-pressure fuel pipeline (the “Pipeline”) which runs from the Marsden Point Import Terminal to the Wiri Oil Terminal in South Auckland. The Pipeline is designated along its entire length, including in the Whangarei District Plan.<sup>2</sup>

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<sup>1</sup> Dated 19 September 2022, being submission number 2.

<sup>2</sup> Designation unique identifier: CTS-1. Note that the requiring authority responsible for the designation is a related entity in the Channel Infrastructure group of companies.

7. Both the Marsden Point Import Terminal and the Pipeline are nationally significant infrastructure resources.<sup>3</sup> Channel Infrastructure is a lifeline utility operator pursuant to the Civil Defence Emergency Management Act 2002.
8. Channel Infrastructure sets out its further submissions in **Attachment A** in respect of the following submissions:
  - (a) Horticulture New Zealand;
  - (b) Ngā Tai Ora – Public Health Northland; and
  - (c) BP Oil NZ Limited / Mobil Oil NZ Limited / Z Energy Limited.
9. Channel Infrastructure wishes to be heard in support of this further submission.
10. If others make a similar submission, Channel Infrastructure would consider presenting a joint case with them at a hearing.
11. Channel Infrastructure could not gain an advantage in trade competition though this submission.

Dated this 11<sup>th</sup> day of November 2022

**CHANNEL INFRASTRUCTURE NZ  
LIMITED** by its solicitors ChanceryGreen,  
per:



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C H Simmons / E J Ellis

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<sup>3</sup> The Marsden Point Import Terminal and Pipeline are identified as regionally significant infrastructure in Appendix 3 of the Regional Policy Statement for Northland and Appendix H.9 of the proposed Northland Regional Plan (appeals version). See also PREC-6 Marsden Point Energy Precinct within the Heavy Industrial Zone Chapter of the Whangarei District Plan (appeals version).

## ATTACHMENT A

Sub no.	Submitter name	Sub point	Submission	Support/oppose	Reasons	Relief sought
4	Horticulture New Zealand	1	<p>Include a new definition for 'residual risk' as follows:</p> <p><u>Means in relation to hazardous substances, any risk of an adverse effect that remains after other industry controls and legislation and regional planning instruments have been complied with.</u></p>	Neutral	<p>Channel Infrastructure does not consider that a new definition for 'residual risk' is necessary in light of the context of PC91 and the Council's approach to hazardous substances. However, if a new definition is to be included, Channel Infrastructure wishes to ensure that it is appropriate and sufficiently clear.</p>	N/A
		4	<p>Amend Policy HSUB-P2 People and Communities as follows:</p> <p><del>To ensure activities which use, store or dispose of hazardous substances are not located in areas where they may adversely affect the health, safety and wellbeing of people and communities unless it can be demonstrated that the</del>  <u>manage residual risk to people and communities by avoided such risk will be avoided</u>, or where avoidance is not practicable, remedied or mitigated to an acceptable level.</p>	Support	<p>Channel Infrastructure agrees with the reasons set out in the submission. There may be circumstances in which it is necessary and appropriate for activities that use/store hazardous substances to locate in areas where there is a potential for effects on health, safety and wellbeing to occur. Such activities should be able to be undertaken provided that residual risks are managed.</p> <p>The Policy should be worded in a way that provides for activities that use, store and dispose of hazardous substances except where there are residual risks.</p>	Accept relief sought in the submission.

Sub no.	Submitter name	Sub point	Submission	Support/oppose	Reasons	Relief sought
		5	<p>Amend Policy HSUB-P3 Sensitive Environments and Areas as follows:</p> <p>To ensure activities which use, store or dispose of hazardous substances <u>which are located</u> <del>are not located</del> within sensitive environments and areas <u>manage, unless it can be demonstrated that the residual risk to people, property and the environment by avoided such risk will be avoided</u>, or where avoidance is not practicable, remedied or mitigated to an acceptable level.</p>	Support	<p>Channel Infrastructure agrees with the reasons set out in the submission. There may be circumstances in which it is necessary and appropriate for activities that use/store hazardous substances to locate in proximity to sensitive activities. Such activities should be able to be undertaken as long as residual risks are managed.</p> <p>The Policy should be worded in a way that provides for use, storage and disposal of hazardous substances in sensitive environments and areas unless there are residual risks.</p>	Accept relief sought in the submission.

Sub no.	Submitter name	Sub point	Submission	Support/oppose	Reasons	Relief sought
5	Ngā Tai Ora – Public Health Northland	1	Include rules for the management, storage, use, transport and disposal of hazardous substances.	Oppose	<p>Channel Infrastructure agrees with the Council's approach in PC91 to avoid duplication of existing controls relating to hazardous substances in a range of legislation and industry standards.</p> <p>Channel Infrastructure acknowledge that the Council retains a broad power under the RMA to include rules in its District Plan to manage hazardous substances. However, Channel Infrastructure consider that Council's approach is appropriate, including for the following reasons and set out in more detail in the s32 Report.</p> <p>Existing legislative controls (including the Hazardous Substances and New Organisms Act 1996 and the Health and Safety at Work Act 2015) and regional provisions (including in the proposed Northland Regional Plan) are adequate to avoid, remedy or mitigate adverse environmental effects associated with hazardous substances.</p> <p>The spatial zoning and underlying zone rules in the District Plan are effective to manage effects associated with hazardous substances. In particular, the two major hazard facilities in Whangarei (including the Marsden Point Import Terminal) are located in the Heavy Industrial Zone, in which sensitive activities are not anticipated.</p>	Reject the relief sought and retain the approach to hazardous substances in the notified PC91, which does not include rules.

Sub no.	Submitter name	Sub point	Submission	Support/oppose	Reasons	Relief sought
		2	<p>Amend Objective HSUB-O1 Residual Risks as follows:</p> <p><u>The health and safety of P</u>people, property and the environment are protected from any unacceptable levels of residual risk associated with the location or expansion of facilities that use, store, transport and/or dispose of hazardous substances.</p>	Oppose	<p>Channel Infrastructure considers the focus of the Objective is appropriate.</p> <p>The proposed amendments are unclear. Further, the inclusion of the words "The health and safety of" could have the effect of inappropriately narrowing the focus of the Objective.</p>	Reject the relief sought and retain Objective HSUB-O1 as notified.

Sub no.	Submitter name	Sub point	Submission	Support/oppose	Reasons	Relief sought
		3	Amend the policies and include a new policy and accompanying rules, seeking to avoid the storage, use, transport and disposal of hazardous substances in natural hazard areas.	Oppose	<p>Channel Infrastructure does not agree that the policies require amendment. It considers that the focus of the policies on residual risk is appropriate.</p> <p>Channel Infrastructure does not agree that PC91 fails to give effect to policies 7.1.2(a) and 7.1.3(g), and method 7.1.7 of the Regional Policy Statement for Northland. These provisions expressly require the management of effects associated with hazardous substances in natural hazard areas. They do not require the avoidance of the use, storage, transport and disposal of hazardous substances in natural hazard areas. Further, and as noted in the s 32 Report, the Regional Policy Statement was prepared prior to the 2017 amendments to the RMA that removed the explicit function of local authorities to manage hazardous substances.</p> <p>Additionally, coastal and other natural hazards will be addressed in separate chapters of the Whangarei District Plan.</p> <p>Therefore, Channel Infrastructure does not consider that a new policy or new rules seeking that the storage, use, transport and disposal of hazardous substances in natural hazard is avoided is appropriate.</p>	Reject relief sought.

Sub no.	Submitter name	Sub point	Submission	Support/oppose	Reasons	Relief sought
6	BP Oil NZ Ltd / Mobil Oil NZ Ltd / Z Energy Ltd	1	Amend the Issues section to include references to the need to avoid duplication of the requirements and obligations that arise under other legislation/regulation/policy.	Support	Channel Infrastructure considers the amendments sought are appropriate and provide further context/clarification regarding the Council's approach to hazardous substances in the District Plan.	Accept relief sought in the submission.
		3	Amend Objective HSUB-O2 Reverse Sensitivity as follows:  <u>Sensitive activities are appropriately located to avoid reverse sensitivity effects and unacceptable residual risk from established do not unduly compromise existing areas</u> and activities which use, store or dispose of hazardous substances.	Support	Channel Infrastructure agrees with the reasons set out in the submission, including that the phrase "unduly compromise" is ambiguous and that the Objective should direct avoidance of reverse sensitivity effects and unacceptable residual risk, in particular by appropriately locating sensitive activities.	Accept relief sought in the submission.
		7	No rules should be included in the Hazardous Substances chapter.	Support	Channel Infrastructure agrees with the reasons set out in the submission and supports the Council's approach to hazardous substances.	Accept relief sought in the submission.



FURTHER  
SUBMISSION

# FURTHER SUBMISSION ON

Proposed Plan Change 91 Hazardous  
Substances Whangarei District Plan

14 November 2022

**To:** Whangarei District Council

**Name of Submitter:** Horticulture New Zealand

## Contact for Service:

Sarah Cameron

Senior Policy Advisor

Horticulture New Zealand

PO Box 10-232 WELLINGTON

Ph: 021 446281

Email: [sarah.cameron@hortnz.co.nz](mailto:sarah.cameron@hortnz.co.nz)

# OVERVIEW

## Submission structure

- 1 Part 1: HortNZ's Role
- 2 Part 2: Further submissions on behalf of HortNZ

## Our submission

Horticulture New Zealand (HortNZ) made a submission on Plan Change 91 and welcomes any opportunity to continue to work with council and to discuss our submission.

The details of HortNZ's further submissions and decisions we are seeking from council are set out below.

# HortNZ's Role

## Background to HortNZ

HortNZ represents the interests of approximately 5,500 commercial fruit and vegetable growers in New Zealand who grow around 100 different fruit, and vegetables. The horticultural sector provides over 40,000 jobs.

There is approximately, 80,000 hectares of land in New Zealand producing fruit and vegetables for domestic consumers and supplying our global trading partners with high quality food.

It is not just the direct economic benefits associated with horticultural production that are important. Horticulture production provides a platform for long term prosperity for communities, supports the growth of knowledge-intensive agri-tech and suppliers along the supply chain; and plays a key role in helping to achieve New Zealand's climate change objectives.

The horticulture sector plays an important role in food security for New Zealanders. Over 80% of vegetables grown are for the domestic market and many varieties of fruits are grown to serve the domestic market.

HortNZ's purpose is to create an enduring environment where growers prosper. This is done through enabling, promoting and advocating for growers in New Zealand.



## HortNZ's Resource Management Act 1991 Involvement

On behalf of its grower members HortNZ takes a detailed involvement in resource management planning processes around New Zealand. HortNZ works to raise growers' awareness of the Resource Management Act 1991 (RMA) to ensure effective grower involvement under the Act.

# Further Submission

1. Horticulture New Zealand's (HortNZ) further submissions are contained in the attached table below.
2. HortNZ represents commercial fruit and vegetable growers in the Whangarei region so represents a relevant aspect of the public interest.
3. HortNZ is not a trade competitor and could not gain any advantage in trade competition through this further submission.
4. HortNZ wishes to be heard in support of its further submissions.
5. If others make similar submissions, HortNZ will consider presenting a joint case with them at the hearing.

## Further submission on behalf of HortNZ on Plan Change 91

Submitter	Sub #	Plan Provision	Support/oppose	Reason	Decision sought
Chancery Green on behalf of Channel Infrastructure NZ Limited	2.1	HSUB - 01 HSUB - P1	Support	HortNZ supports the focus on residual risk associated with the location of facilities that use, store and dispose of hazardous substances.	Retain HSUB-O1  Include a definition for residual risk as sought in the submission of HortNZ.
Chancery Green on behalf of Channel Infrastructure NZ Limited	2.2	HSUB - 02 HSUB - P4	Support	HortNZ supports recognition that sensitive activities can generate reverse sensitivity effects.	Retain HSUB-O2
Reyburn and Bryant on behalf of Northpower	3.1	Whole plan	Support in part	General support for plan change however HortNZ has made amendments to HSUB - P2 and HSUB - P3	Retain plan change with consideration to amendments to HSUB - P2 and HSUB - P3 as sought in the submission of HortNZ.
Ngā Tai Ora - Public Health Northland	5.1	Whole plan change	Oppose	The submitter considers that PC91 should be consistent with the draft Kaipara District Plan and the proposed Far North District Plan and seeks changes that align with the draft Kaipara DP.  HortNZ has made submissions opposing the approach in the draft	Reject submission of Nga Tai Ora and retain plan change 91 with amendments to HSUB - P2 and HSUB - P3 as sought by HortNZ.

Submitter	Sub #	Plan Provision	Support/oppose	Reason	Decision sought
				<p>Kaipara District Plan and would not support Whangarei DC amending the PC91 as sought by the submitter.</p> <p>The draft Kaipara District Plan is not a statutory document and should not be used as a model.</p> <p>PC91 follows recent developments in management of hazardous substances that reflect changes in legislation that manage hazardous substances.</p> <p>This issue was well canvassed by the Independent Hearing Panel for the Christchurch Replacement District Plan and HortNZ supports the approach set out by the panel.</p> <p><a href="https://chchplan.ihp.govt.nz/wp-content/uploads/2015/03/Decision-18-Hazardous-Substances-and-Contaminated-Land-and-relevant-definitions-Stages-1-and-2.pdf">https://chchplan.ihp.govt.nz/wp-content/uploads/2015/03/Decision-18-Hazardous-Substances-and-Contaminated-Land-and-relevant-definitions-Stages-1-and-2.pdf</a></p> <p>The approach in PC91 is consistent with the Christchurch decision and is supported by HortNZ.</p> <p>Previously regional and district councils had an explicit function to control the adverse effects of the storage, use, disposal or</p>	

Submitter	Sub #	Plan Provision	Support/oppose	Reason	Decision sought
				<p>transportation of hazardous substances under the RMA.</p> <p>Since this function was first included in the RMA in 1991, the following Acts have been passed:</p> <ul style="list-style-type: none"> <li>• Hazardous Substances and New Organisms Act 1996 (HSNO), which regulates the management, disposal, classification, packaging and transport of hazardous substances</li> <li>• Health and Safety at Work Act 2015 (HSW Act), under which Worksafe New Zealand is responsible for establishing workplace controls for hazardous substances, and is the principal enforcement and guidance agency in workplaces.</li> </ul> <p>Some existing RMA controls on hazardous substances duplicate or increase those in place under HSNO, which can be confusing for users of hazardous substances.</p>	

Submitter	Sub #	Plan Provision	Support/oppose	Reason	Decision sought
				Sections 30 and 31 of the RMA have been amended to remove the control of hazardous substances as an explicit function of councils. This means councils no longer have an explicit obligation to regulate hazardous substances in RMA plans, or policy statements.	
Ngā Tai Ora - Public Health Northland	5.2	HSUB - 01	Oppose	HortNZ supports the focus on residual risk associated with the location of facilities that use, store and dispose of hazardous substances.	Retain HSUB - 01 Include a definition for residual risk as sought in the submission of HortNZ.
Ngā Tai Ora - Public Health Northland	5.3	New Policy and rules	Oppose	The submitter seeks a new policy and accompanying rules. As set out above HortNZ opposes this approach.	Reject submission to add new policy and rules.
4Sight Consulting Limited on behalf of BP Oil NZ Limited / Mobil Oil NZ Limited / Z Energy Limited	6.1	Issues	Support	Support amendments to the issues section to state the need to avoid duplication.	Amend as sought by the submitter.



Submitter	Sub #	Plan Provision	Support/oppose	Reason	Decision sought
4Sight Consulting Limited on behalf of BP Oil NZ Limited / Mobil Oil NZ Limited / Z Energy Limited	6.2	HSUB - 01	Support	HortNZ supports the focus on residual risk associated with the location of facilities that use, store and dispose of hazardous substances.	Retain HSUB - 01 Include a definition for residual risk as sought in the submission of HortNZ
4Sight Consulting Limited on behalf of BP Oil NZ Limited / Mobil Oil NZ Limited / Z Energy Limited	6.2	HSUB - 02	Support in part	HortNZ supports recognition that sensitive activities can generate reverse sensitivity effects. The submitter seeks changes to include residual risk. HortNZ does not oppose this addition but seeks to retain reference to not compromising existing areas and activities.	Retain HSUB - 02 as notified or amend to: Sensitive activities are appropriately located to avoid unacceptable residual risk from established activities and reverse sensitivity effects do not unduly compromise existing areas and activities which use, store or dispose of hazardous substances.
4Sight Consulting Limited on behalf of BP Oil NZ Limited / Mobil Oil NZ Limited / Z Energy Limited	6.3	HSUB - P1	Support	HortNZ supports a policy that seeks to avoid duplication of regulation.	Retain HSUB - P1
4Sight Consulting Limited on behalf of BP Oil NZ Limited / Mobil Oil	6.4	HSUB - P2	Support in part	The submitter seeks to retain HSUB-P2. HortNZ considers that the policy should be written to provide for	Amend HSUB-P2 as sought in the submission of HortNZ.

Submitter	Sub #	Plan Provision	Support/oppose	Reason	Decision sought
NZ Limited / Z Energy Limited				use, storage and disposal of hazardous substances there is an adverse effect from residual risk that needs to be managed	
4Sight Consulting Limited on behalf of BP Oil NZ Limited / Mobil Oil NZ Limited / Z Energy Limited	6.5	HSUB - P3	Support in part	The submitter seeks to retain HSUB-P3. HortNZ considers that the policy should be written to provide for use, storage and disposal of hazardous substances in sensitive environments and areas unless there is an adverse effect from residual risk that needs to be managed.	Amend HSUB-P3 as sought in the submission of HortNZ.
4Sight Consulting Limited on behalf of BP Oil NZ Limited / Mobil Oil NZ Limited / Z Energy Limited	6.6	HSUB-P4	Support	HortNZ supports HSUB-P4	Retain HSUB-P4
4Sight Consulting Limited on behalf of BP Oil NZ Limited / Mobil Oil NZ Limited / Z Energy Limited	6.7	Whole chapter	Support	The submitter seeks that no rules be added to PC91. HortNZ supports that position.	Accept submission to not add rules to PC91.

Submitter	Sub #	Plan Provision	Support/oppose	Reason	Decision sought
4Sight Consulting Limited on behalf of BP Oil NZ Limited / Mobil Oil NZ Limited / Z Energy Limited	6.8	Definitions	Support	The submitter supports the proposed definition of sensitive environments and areas and deletion of the definitions of hazardous facility and hazardous sub-facility. HortNZ supports that position.	Accept submission relating to definitions.
4Sight Consulting Limited on behalf of BP Oil NZ Limited / Mobil Oil NZ Limited / Z Energy Limited	6.9	Consequential amendments	Support	HortNZ supports the consequential amendments in PC91	Retain deletion of consequential amendments.

**NOTICE OF FURTHER SUBMISSION ON PLAN CHANGE 91 – HAZARDOUS SUBSTANCES  
TO THE WHANGĀREI DISTRICT PLAN PURSUANT TO CLAUSE 8 OF THE FIRST SCHEDULE  
OF THE RESOURCE MANAGEMENT ACT 1991**

**To:** Whangārei District Council  
Private Bag 9023  
WHANGĀREI 0148  
Attention: District Plan Department

By e-mail only: [mailroom@wdc.govt.nz](mailto:mailroom@wdc.govt.nz)

**Submitter:** bp Oil New Zealand Limited  
PO Box 99 873  
AUCKLAND 1149

Mobil Oil New Zealand Limited  
PO Box 1709  
AUCKLAND 1140

Z Energy Limited<sup>1</sup>  
PO Box 2091  
WELLINGTON 6140

*Hereafter referred to as the Fuel Companies*

**Address for service:** 4Sight Consulting Limited  
201 Victoria Street West  
Auckland Central  
PO Box 911 310

Attention: Megan Barr  
Phone: (021) 468 108  
Email: [megan.barr@4sight.co.nz](mailto:megan.barr@4sight.co.nz)

**Date:** 14 November 2022

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<sup>1</sup> On behalf of the wider Z group, including the Z Energy and Caltex operations in New Zealand

1. THE FUEL COMPANIES' FURTHER SUBMISSION POINTS ARE AS CONTAINED IN THE ATTACHED TABLE.
2. THE FUEL COMPANIES' INTEREST IN THE PROPOSED DISTRICT PLAN CHANGE IS GREATER THAN THE INTEREST OF THE GENERAL PUBLIC.
3. THE FUEL COMPANIES WISH TO BE HEARD IN SUPPORT OF THIS FURTHER SUBMISSION.
4. IF OTHERS MAKE SIMILAR SUBMISSIONS, THE FUEL COMPANIES WOULD 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.



Megan Barr

Senior Planning and Policy Consultant

14 November 2022

Sub No.	Submitter name	Relief Sought by Submitter	FuelCo position	Reason for Support / Opposition	Relief sought
2.1	<i>Channel Infrastructure</i>	Council to review the relevant zone rules to appropriately manage the design and location of sensitive activities in order to avoid reverse sensitivity effects occurring, as necessary to achieve Objective HSUB-O2 and Policy HSUB-P4 and make any amendments to the Whangārei District Plan as a consequence.	<b>Support</b>	The Fuel Companies are not opposed to zone rules providing the key rules to manage reverse sensitivity issues associated with the design and location of sensitive activities in proximity to Marsden Point. For that to be effective, the Fuel Companies agree it is critical that the zone rules give effect to the objectives and policies of the amended hazardous substance chapter, including HSUB-O2 and HSUB-P4.	Ensure the rule framework in the relevant zones gives effect to the direction to avoid reverse sensitivity effects as sought by the Fuel Companies.
4.1	<i>Horticulture NZ</i>	Include a definition for residual risk as follows:  <i>Means in relation to hazardous substances, any risk of an adverse effect that remains after other industry controls and legislation and regional planning instruments have been complied with.</i>	<b>Neutral</b>	The Fuel Companies do not consider a new definition is critical in the context of PC91 but if one is adopted seek to ensure that it is clearly focused on off site risk associated with the storage and use of hazardous substances not controlled by other legislation or regulation.	Ensure any definition of residual risk is specific to off site risk remaining after compliance with other legislation and regulation.
5.1	<i>Ngā Tai Ora – Public Health Northland</i>	1) Include appropriate rules for the management storage, use, transport and disposal of hazardous substances in PC91. At a minimum, this should include (but is not limited to) the inclusion of rules managing:  a. The establishment or expansion of facilities managing, storing, using or disposing of hazardous substances within, or in close proximity to, sensitive environments (e.g., residential areas or adjacent to schools or health care facilities and hospitals).	<b>Oppose</b>	The Fuel Companies support Council’s approach in PC91 to avoid duplication with other legislation that controls hazardous substances, including the Hazardous Substances and New Organisms Act 1996 (HSNO Act), the Health and Safety at Work Act 2015 (HSW) and the Resource Legislation Amendment Act 2017 (RLAA).  The Fuel Companies agree with the submitter that Council retains a broad power under the RMA to manage hazardous substances to achieve the purpose of the RMA and carry out the function of integrated management of natural and physical resources. Similarly, the Fuel Companies agree that the RMA has a role to play in managing the storage and use of	Reject the relief sought and ensure that any rules that are introduced are justified by robust s32AA analysis.

Sub No.	Submitter name	Relief Sought by Submitter	FuelCo position	Reason for Support / Opposition	Relief sought
		<p>b. The establishment of sensitive activities (e.g., residential activities, marae schools or healthcare facilities and hospitals) adjacent to, or within close proximity to, lawfully established hazardous substances facilities.</p> <p>c. The establishment or expansion of facilities managing, storing, using or disposing hazardous substances in areas that may increase the risk of accident or adverse effects on public health and safety, and the environment (e.g., in areas subject to natural hazards or adjacent to sensitive natural environments or habitats).</p> <p>d. Appropriate limits or thresholds for the storage of certain hazardous substances across the various zones in the WDP.</p> <p>2) Amend the policies to provide an adequate policy framework for the inclusion of the above rules.</p>		<p>hazardous substances. However, this should only be exercised where the potential environmental effects are not adequately addressed by other legislation, including by HSNO and HSWA and there is an identified issue or problem – there is no value in regulating matters that are not causing an issue. To inform its position, Council has undertaken a s32 analysis.</p> <p>Particularly in seeking to control the overall hazardous substance risk and not just residual risk off site, and seeking to regulate the transport of hazardous substances, the relief sought by the submitter is directly contrary to national direction and clearly duplicates other requirements. Any introduction of regulation in this area must be re-evaluated in terms of the regulatory functions and s32AA analysis.</p> <p>The submitter refers to the notified hazardous substance provisions in FNDC but does not recognise that those provisions are much more targeted than the submitter seeks via relief to PC91. In terms of the exposure draft of the Kaipara District Plan, the Fuel Companies are strongly opposed to those provisions for many of the same reasons set out here.</p>	
5.2	Ngā Tai Ora – Public Health Northland	<p>Amend HSUB-O1 as follows (additions underlined and deletions struck through):</p> <p><u>The health and safety of people, property and the environment are protected from any unacceptable levels of residual risk associated</u></p>	Oppose	<p>The Fuel Companies oppose the changes sought in relation to residual risk and transport, including for the reasons set out above re 5.1. Similarly the intent of the drafting in relation to health and safety is unclear and seems to narrow the focus of the objective significantly.</p>	Reject the relief sought.

Sub No.	Submitter name	Relief Sought by Submitter	FuelCo position	Reason for Support / Opposition	Relief sought
		<p><i>with the location <u>or expansion</u> of facilities that use, store, <del>transport</del> <u>and</u> <u>or</u> dispose of hazardous substances.</i></p> <p>Amend the policies as required to give effect to the amended HSUB-O1.</p>		The nature and extent of consequential changes sought to policies are unclear.	
5.3	Ngā Tai Ora – Public Health Northland	Include a new policy and accompanying rules, seeking to avoid the storage, use, transport, and disposal of hazardous substances in natural hazard areas.	<b>Oppose</b>	<p>The District Plan definition of “natural hazard” covers a wide range of hazards, including earthquake, tsunami, erosion, volcanic and geothermal activity, landslip, subsidence, sedimentation, wind, drought, fire or flooding.</p> <p>A policy approaching requiring the avoidance of hazardous substances in natural hazard areas is not risk based and would necessitate rules prohibiting the same. Doing so would likely exclude the ongoing operation, maintenance and upgrading of a range of facilities, including regionally significant infrastructure at Marsden Point.</p>	Reject the relief sought.





**To:** Whangārei District Council (**WDC**)  
**From:** Ngā Tai Ora - Public Health Northland (**Ngā Tai Ora**)  
**Date:** 14 November 2022  
**Address for Service:** Gavin De Klerk, Ngā Tai Ora - Public Health Northland [Gavin.DeKlerk@northlanddhb.org.nz](mailto:Gavin.DeKlerk@northlanddhb.org.nz)  
**Re:** Plan Change 91 Hazardous Substances (**PC91**) – Ngā Tai Ora Further Submission

**Further Submission Information:**

This is a further submission by Ngā Tai Ora on proposed plan change 91 to the Whangārei District Plan (**PC91**).

Ngā Tai Ora made an initial submission on PC91.<sup>1</sup>

Ngā Tai Ora has an interest in PC91 that is greater than the interest the general public has. It also represents a relevant aspect of the public interest in its role relating to public health interests and outcomes.

Ngā Tai Ora could not gain an advantage in trade competition through this further submission.

The specific submission points on PC91 that Ngā Tai Ora's further submission relates to are attached.

Ngā Tai Ora **opposes** PC91. It also opposes and supports further submissions as per the attached document. The reasons are provided in the attached document.

The decisions that Ngā Tai Ora wishes Whangārei District Council to make to ensure the issues raised by Ngā Tai Ora are dealt with, are also contained in the attached document.

Ngā Tai Ora **wishes to be heard** in support of this further submission.

Gavin De Klerk, Interim Service Manager

Ngā Tai Ora - Public Health Northland / Te Tai Tokerau / Northern Region

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<sup>1</sup> Dated 21 September 2022 submission #5.

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## 1.0 Introduction

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Te Whatu Ora – Health New Zealand leads the day-to-day running of the health system across New Zealand, with functions delivered at local, district, regional and national levels. Te Whatu Ora undertakes the operational functions of the Ministry of Health, including the management of all health services, including hospital and specialist services, and primary and community care. Te Whatu Ora will also be responsible for improving services and outcomes across the health system. We will do this in partnership with the Māori Health Authority.

Te Whatu Ora has statutory obligations under the Pae Ora Act 2022, New Zealand Public Health and Disability Act 2000 and the Health Act 1956 to improve, promote and protect the health of people and communities of Aotearoa New Zealand.

Within Te Whatu Ora sits the National Public Health Service (**NPHS**) which delivers national, regional and local programmes of health promotion, protection and prevention. The goals of the National Public Health Service, which includes Ngā Tai Ora – Public Health Northland (a sub-group under Te Whatu Ora and the party making this submission), are to improve population and public health with an emphasis on health equity, particularly for Māori, Pacific peoples, disabled peoples, and other population groups that continue to experience inequitable health outcomes. As the founding document of Aotearoa New Zealand, Te Tiriti o Waitangi represents an agreement between Māori and the Crown. Māori are afforded equity and protection of health as a result of this document and as a Crown agent we honour our responsibilities to Te Tiriti o Waitangi.

Ngā Tai Ora made an initial submission on PC91 in opposition for the reasons outlined in the initial submission, primarily relating to the potential adverse health effects of PC91, and promoting positive health outcomes for people and communities in the Whangārei District.<sup>2</sup> This further submission addresses submissions from other parties which relate to these matters.

Ngā Tai Ora sets out its further submissions in **Attachment 1** in respect of the following submissions:

- a) Sub #1 Manulife Forest Management
- b) Sub #2 Channel Infrastructure NZ Limited
- c) Sub #4 Horticulture New Zealand
- d) Sub #6 BP Oil NZ Limited / Mobil Oil NZ Limited / Z Energy Limited

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<sup>2</sup> Dated 21 September 2022 submission #5.

# Attachment 1 – Ngā Tai Ora Further Submissions



Sub #	Submitter Name	Sub Point	Submission	Support / Oppose	Reasons	Relief Sought
1	Urusula Buckingham c/o Manulife Forest Management	1	Remove Area of High Susceptibility to Instability Hazards from the Sensitive Environments and Areas definition.  OR Provide an exception that Permitted Activities that operate in an Area of High Susceptibility to Instability Hazards are excluded from the Sensitive Environments and Areas definition.	Oppose	Ngā Tai Ora oppose this relief. Areas subject to high susceptibility of instability are at greater risk where subject to hazardous substances storage. These should not be excluded from the definition to address requirements of plantation forestry operators, nor is providing an exemption for permitted activities appropriate in a definition.	Decline the relief sought in this submission point and retain the definition of “Sensitive Environments and Areas” as notified.
2	Channel Infrastructure NZ Limited	1	Retain Objective HSUB-O1 and Policy HSUB-P1 as notified.	Oppose	Ngā Tai Ora oppose this relief in these submission points, as it has sought changes the objective and policies as outlined in its original submission (see Sub# 5-2 and 5-3).	Decline the relief sought in these submission points, and make changes to the objectives and policies as outlined in Ngā Tai Ora’s
		2	Retain Objective HSUB-O2 and Policy HSUB-P4 as notified.			

Sub #	Submitter Name	Sub Point	Submission	Support / Oppose	Reasons	Relief Sought
						original submission (see Sub# 5-2 and 5-3).
2	Channel Infrastructure NZ Limited	3	Council to review the relevant zone rules to appropriately manage the design and location of sensitive activities in order to avoid reverse sensitivity effects occurring, as necessary to achieve Objective HSUB-O2 and Policy HSUBP4 and make any amendments to the Whangārei District Plan as a consequence.	Support	Ngā Tai Ora support reviewing the relevant zoning rules to manage reverse sensitivity for the location of sensitive activities to achieve the objectives and policies. This is consistent with the relief sought in Ngā Tai Ora's original submission (see Sub #5-1 clause b). It is important that the conflicts between incompatible activities (e.g., sensitive activities and lawfully established hazardous substances facilities) are avoided. Ngā Tai Ora would also add that it is important that this is managed the other way as well (e.g., the establishment of a hazardous substances facility in an area with lawfully established sensitive activities).	Accept the relief sought, noting Ngā Tai Ora's original submission (see Sub #5-1 clause b).

Sub #	Submitter Name	Sub Point	Submission	Support / Oppose	Reasons	Relief Sought
4	Horticulture New Zealand	1	Retain HSUB-O1 Include a definition for residual risk as follows: Means in relation to hazardous substances, any risk of an adverse effect that remains after other industry controls and legislation and regional planning instruments have been complied with.	Oppose	Ngā Tai Ora oppose this relief in this submission point, as it has sought changes the objective as outlined in its original submission (see Sub# 5-2).  Ngā Tai Ora do not consider that a definition for residual risk is necessary given the current approach to PC91. However, if a new definition is to be included, Ngā Tai Ora wishes to ensure that it is appropriately worded so that it is clear in its application and purpose.	Decline the relief sought in this submission point.
4	Horticulture New Zealand	2	Retain HSUB-O2	Oppose	Ngā Tai Ora oppose the relief sought in these submission points, as it has sought changes the objectives and policies as outlined in its original submission (see Sub# 5-2 and 5-3).  Furthermore, Ngā Tai Ora consider that the specific changes to HSUB-P2 and HSUB-P3 are inappropriate, as they attenuate the effectiveness	Decline the relief sought in these submission points, and make changes to the objectives and policies as outlined in Ngā Tai Ora's original submission (see Sub# 5-2 and 5-3).
		3	Retain HSUB-P1	Oppose		
		4	Amend HSUB-P2 as follows:  To ensure activities which use, store or dispose of hazardous substances <del>are not located in areas where they may adversely affect the health, safety and wellbeing of people and</del>	Oppose		

Sub #	Submitter Name	Sub Point	Submission	Support / Oppose	Reasons	Relief Sought
			<p><del>communities, unless it can be demonstrated that the</del> <u>manage</u> residual risk to people and communities <u>by avoiding such risk</u> <del>will be avoided,</del> or where avoidance is not practicable, remedied or mitigated to an acceptable level.</p>		<p>of the policies by removing necessary references to health, safety and wellbeing of people and communities.</p>	
		5	<p>Amend HSUB-P3 as follows:            To ensure activities which use, store or dispose of hazardous substances <u>which are located</u> <del>are not located</del> within sensitive environments and areas <u>manage</u> <del>unless it can be demonstrated that the</del> residual risk to people, property and the environment by avoiding such risk <u>by avoiding such risk</u> <del>will be avoided,</del> or where avoidance is not practicable, remedied or mitigated to an acceptable level.</p>	Oppose		

Sub #	Submitter Name	Sub Point	Submission	Support / Oppose	Reasons	Relief Sought
6	BP Oil NZ Limited / Mobil Oil NZ Limited / Z Energy Limited	2	Retain Objective HSUB-O1 as notified	Oppose	Ngā Tai Ora oppose the relief sought in these submission points, as it has sought changes the objectives and policies as outlined in its original submission (see Sub# 5-2 and 5-3). Furthermore, Ngā Tai Ora consider that the specific changes to HSUB-O2 are inappropriate, as they attenuate the effectiveness of the objective by removing necessary references to “unduly compromising” which is consistent with the language in the Northland Regional Policy Statement.	Decline the relief sought in these submission points, and make changes to the objectives and policies as outlined in Ngā Tai Ora’s original submission (see Sub# 5-2 and 5-3).
		2 <sup>3</sup>	Amend Objective HSUB-O2 as follows:  Sensitive activities are appropriately located to avoid reverse sensitivity effects and <u>unacceptable residual risk from established</u> <del>do not unduly compromise existing areas and</del> activities which use, store or dispose of hazardous substances.			
		3	Retain Policy HSUB-P1 as notified.			
		4	Retain Policy HSUB-P2 as notified.			
		5	Retain Policy HSUB-P3 as notified.			
		6	Retain Policy HSUB-P4 as notified.			
6	BP Oil NZ Limited / Mobil Oil NZ Limited / Z Energy Limited	7	The Fuel Companies support the Council’s decision not to include rules in relation to hazardous	Oppose	Ngā Tai Ora sought rules be added to the Hazardous Substances Chapter to manage the adverse effects of hazardous substances.	Decline the relief sought in this submission point, and make changes to include rules

<sup>3</sup> Ngā Tai Ora note that there appears to be two submission points labelled “2” for the Fuel Companies submission. It is assumed that this is in error, and for the avoidance of doubt, Ngā Tai Ora’s further submission relates to both.

Sub #	Submitter Name	Sub Point	Submission	Support / Oppose	Reasons	Relief Sought
			substances and request that no rules are added to the Hazardous Substances chapter.			consistent with Ngā Tai Ora's original submission (Sub #5-1).