

IN THE MATTER of the Resource Management Act 1991 ("**the Act**")

AND

IN THE MATTER **PLAN CHANGES** 82 A & B, 88 A-J, 109, 115, 136, 143, 144, 145, 147 & 148 ('**Urban and Services**') to the **OPERATIVE WHANGAREI DISTRICT PLAN**

MEMORANDUM OF COUNSEL ON BEHALF OF REFINING NZ (No. 2)

To: Hearings Panel
Whangarei District Council
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As counsel for Refining NZ, a submitter and further submitter in relation to the Urban and Services proposed plan changes to the Operative Whangarei District Plan, we advise the Council as follows:

1. We refer to our earlier memorandum of counsel regarding Direction #1 of the Hearings Panel. As requested in that memorandum, the Hearings Panel agreed to extend the deadline for Refining NZ to provide its expert evidence, to midday on 22 November.
2. As previously advised, Refining NZ has instructed two experts to prepare evidence. Of those two experts:
 - (a) Mr Blair Masefield is to provide expert planning evidence relating to Refining NZ's proposed amendments to the objective and policy framework, the Marsden Point Refinery Precinct, and Heavy Industry Zone. Mr Masefield advises that due to other work commitments, including other evidence on this matter, he requires a short further extension to the 22 November deadline.
 - (b) Mr Stephen Brown is to provide expert visual and landscape evidence confined to the change sought by Refining NZ to the permitted building height within the Marsden Point Refinery Precinct. Unfortunately, Mr Brown has a series of other work commitments, including matters before the Environment Court, and has advised that he is unable to provide his evidence by the 22 November deadline, and further, is unable to appear before the Hearings Panel on this matter.
3. Accordingly, Refining NZ advises that it is unable to provide its planning, and expert visual and landscape evidence by the extended 22 November deadline.

4. Refining NZ apologises for the further delay in finalising this evidence. However, Mr Masefield's and Mr Brown's evidence relates to key parts of Refining NZ's submission and further submission, and we therefore consider it is important that the evidence provided to the Hearings Panel is clear and complete. This will best assist the Hearings Panel in understanding the issues raised. We do not consider that any party will be prejudiced by the further extension sought.
5. Refining NZ therefore seeks the leave of the Hearings Panel to provide:
 - (a) Mr Masefield's evidence by 5pm on Monday 25 November; and
 - (b) Mr Brown's evidence on or before 6 December, when presenting its case before the Hearings Panel. We consider this to be appropriate given the very confined scope of the evidence to be provided by Mr Brown.
6. We look forward to receiving confirmation of this further revised deadline for provision of Refining NZ's expert visual and landscape evidence in paragraph 4 above.

Dated 21 November 2019

Counsel for Refining NZ



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