

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

To: Hearings Panel
Whangarei District Council
Private Bag 9023
Whangarei 0148

Email: eden.edwardson@wdc.govt.nz

Copy to: mailroom@wdc.govt.nz

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. Direction #1 of the Hearings Panel dated 27 September 2019 establishes a timetable for advance provision of evidence. That Direction also strongly encourages conferencing between respective experts to identify and narrow issues.
2. Refining NZ had been working towards the evidence provision timetable. However, as a result of its experts further considering issues, and conferencing with experts of other submitters, including Northport, it no longer intends to pursue the inclusion of a new noise overlay as sought in its submission.¹
3. Refining NZ's focus on appropriately reframing the scope of its position on the noise overlay consequently means that it has not yet developed the expert witness evidence necessary to support the other issues advanced in its submission and further submission.
4. The expert evidence Refining NZ intends to provide will therefore now cover:
 - (a) 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; and

¹ Refer paragraphs 77-78 of the Refining NZ submission, submission number 260.

- (b) Expert visual and landscape evidence confined to the change sought by Refining NZ to building height within the Marsden Point Refinery Precinct.
5. Additional time is required to finalise and provide the above two briefs of evidence.
 6. Refining NZ therefore seeks the leave of the Hearings Panel to provide its expert evidence by **midday on Friday 22 November 2019**. This is before the commencement of the hearing, and as such, means that any third party with an interest in Refining NZ's expert evidence will have an opportunity to review and, if necessary, respond to that evidence. Given Refining NZ is scheduled to be heard late in the hearing schedule, this revised deadline will also ensure time is afforded for the Hearing Panel to read and consider the evidence prior to the presentation of Refining NZ's case.
 7. Refining NZ apologises for any inconvenience caused.
 8. We look forward to receiving confirmation of the revised deadline for provision of Refining NZ's expert evidence in paragraph 6 above.

Counsel for Refining NZ



Chris Simmons
ChanceryGreen

PO Box 47516, Ponsonby
Auckland 1144
t: 09 357 0600

e: chris.simmons@chancerygreen.com