

BEFORE THE ENVIRONMENT COURT  
AT AUCKLAND

I MUA I TE KŌTI TAIAO O AOTEAROA  
KI TĀMAKI MAKĀURAU

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

AND of appeals under clause 14 of the First Schedule to the Act in relation to Proposed Plan Change 88J to the Operative Whangarei District Plan

BETWEEN THE NEW ZEALAND REFINING COMPANY LIMITED  
(ENV-AKL-2020-000126)

Appellant

AND WHANGĀREI DISTRICT COUNCIL  
Respondent

Chief Environment Court Judge D A Kirkpatrick sitting alone under s 279 of the Act

In Chambers at Auckland

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**CONSENT ORDER**

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A: Under s 279(1)(b) of the Resource Management Act 1991, the Environment Court, by consent, orders that:

- (1) the appeal is allowed in part as it relates to the following:
  - (a) PREC6 Issues;
  - (b) Policy PREC6-P1 Refinery Functioning
  - (c) Rule PREC6-R6 Lighting: Artificial Lighting Associated with Refining Activities; and



(d) Definition of "Refining Activities".

(2) the appeal is otherwise extant.

B: Under s 285 of the Act, there is no order as to costs.

## REASONS

### **Introduction**

- [1] This appeal relates to the decision of the Whangārei District Council on Plan Change 88J, part of the Urban and Services plan change package to the Operative Whangārei District Plan.
- [2] This consent order relates to the part of the appeal assigned to the Refinery topic. This part of the appeal relates to Precinct 6, of the Marsden Point Energy Precinct (**MPEP**); the Refinery's site-specific precinct at Marsden Point, overlaid on the Heavy Industry zone.
- [3] The Refinery is recognised in the Northland Regional Policy Statement as regionally significant infrastructure (**RSI**). The MPEP replaces an operative 'scheduled activity' for the Refinery.
- [4] Refining NZ's subsequent appeal sought amendments to the MPEP Issue, Policy, and definition of "Refinery Activities" to ensure that the MPEP appropriately provides for the future operation and possible development at Marsden Point - including the possibility that oil refining is no longer the primary activity. The appeal also sought a minor correction to MPEP rule 6 to correctly cross-refer to the defined term "Refinery Activities".
- [5] Following direct discussion prior to formal mediation, the parties have reached agreement on a proposal to resolve the aspects of the appeal which relate to the Refinery topic.

### **Consideration**

- [6] In making this order the Court has read and considered the appeal and the memorandum of parties dated 26 August 2020, and also heard from the Council at the Callover on 18 September 2020.



[7] No parties have given notice of an intention to become a party to the relevant part(s) of the appeal under s 274.

[8] The Court is making this order under s 279(1)(b) of the Act, such order being by consent, rather than representing a decision or determination on the merits pursuant to s 297. The Court understands for present purposes that:

- (a) All parties to the proceedings have executed the memorandum requesting this order;
- (b) All parties are satisfied that all matters proposed for the Court's endorsement fall within the Court's jurisdiction, and conform to relevant requirements and objectives of the Act, including in particular Part 2; and
- (c) Parties have not participated in Alternative Dispute Resolution (this appeal having been resolved prior to mediation being scheduled).

#### Order

[9] Therefore the Court orders, by consent, that the following provisions in Precinct 6 Marsden Point Energy Precinct be amended in accordance with Annexure 1 (insertions marked as underlined, deletions as ~~stricken through~~):

- PREC6 Issues;
- Policy PREC6-P1 Refinery Functioning;
- Rule PREC6-R6 Lighting: Artificial Lighting Associated with Refining Activities; and
- Definition of "Refinery Activities".

[10] There is no order as to costs in respect of the matters covered by this order.

DATED at Auckland this 6th day of October 2020



  
D A Kirkpatrick  
Environment Judge

## Annexure 1

### PREC6 Issues

The Marsden Point Energy Precinct (MPEP) applies to the land associated with the Marsden Point Refinery, which is identified as regionally significant infrastructure. The Marsden Point Energy Precinct permits all activities that are related to the primary-current and reasonably foreseeable future function of the refinery site. Thus, in addition to the day to day running of the refinery, the Marsden Point Energy Precinct provides for the needs of staff and visitors as well as people and communities in the District, including by adapting to changing technological, operational, economic, environmental and social conditions. ~~and includes workers' accommodation.~~

### PREC6-P1 Refinery Activities

To enable the operation, maintenance and upgrading of the Marsden Point Refinery by providing for a range of activities associated with the production, import, refining and/or distribution of energy products ~~activities which are related to the primary function of the refinery site.~~

### PREC6-R6 Lighting: Artificial Lighting Associated with Refining Refinery Activities

Activity Status: Permitted

### Definition of "Refinery Activities"

Means the use of land, buildings and major structures within the Marsden Point Energy Precinct for refinery related activities associated with the production, import, refining, and/or distribution of energy products, including:

- a. Operation of storage and fuel tanks;
- b. Refining and/or processing plants;
- c. Distribution of products;
- d. Electricity generation ~~plants~~ and associated transmission lines;
- e. Ancillary offices;
- f. Ancillary support and community activities;
- g. Visitor centres;
- h. Canteens/cafes associated with the refinery; and
- i. Ancillary facilities catering to the needs of staff and visitors.

