SLR Consulting New Zealand
Level 2, 214 Collingwood Street, Hamilton 3204, New Zealand

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SLR Ref No.: Submitter 257 Fuel Companies - Hearing Statement for PC29 v1.0 FINAL

Nelson City Council
Private Bag 9023
Whangarei 0143

Attention: Harry Forrester

Via email: planchange@ncc.govt.nz

RE: Hearing for Plan Change 29 – Housing and Hazards to the Nelson Resource Management Plan
Tabled Hearing Statement on behalf of the Fuel Companies
- **Submitter 257 and Further Submitter FS42**

1.0 Introduction

1. This hearing statement is prepared on behalf of bp Oil New Zealand Limited, Mobil Oil New Zealand Limited and Z Energy Limited (the **Fuel Companies**) on the hearing for Plan Change 29 – Housing and Hazards (**PC29**). This hearing statement represents the views of the Fuel Companies and is not expert evidence. The Fuel Companies will not be speaking to the hearing on the matters contained herein but ask that this hearing statement be tabled before the Hearing Panel. Nothing in this hearing statement limits the potential for the Fuel Companies to file rebuttal evidence in relation to primary evidence filed by any submitter.

2. The Fuel Companies have an interest in PC29 to the extent that it relates to or impacts on their sites and activities in the Nelson. The Fuel Companies assets in Nelson include service stations, truck stops, and bulk fuel terminals located at Port Nelson.

3. The Fuel Companies submission points are addressed in the Council's Section 42A Hearing Reports (**s42A Report**) on the topics for Natural Hazards; City Centre, Commercial and Infrastructure; and Residential. Overall, the Fuel Companies are of the view that the recommendations set out in the Council's Section 42A Hearing Reports (**s42A Report**), are appropriate for managing natural hazard risks, and for addressing reverse sensitivity effects where a resource consent is required for residential development. The Fuel Companies generally endorse the s42A Report recommendations, except as otherwise commented in this hearing statement.

4. In addition, where the Fuel Companies sought to retain the PC29 provisions, no further comment is made in this hearing statement where the submission point is accepted by the s42A Report without further change (applies to submission points 257.002, 257.003. 257.005, 257.009, 257.014, 257.015, and 257.022).

2.0 Hazardous Substances Storage and Use

5. The Fuel Companies (submission 257.001) supported clause 9 of Policy DO2.2.4 relating to the appropriate management of the storage and use of hazardous substances in relation to flood hazards. A range of controls are employed to manage sites storing and using large quantities of hazardous substances, including in relation to the effects of flooding, such as positioning storage tanks underground where it is resilient to the effects of flooding. No further changes are recommended in the s42A Report to clause 9 of Policy DO2.2.4 and this is supported.

6. Related to the matter discussed in paragraph 5, the Fuel Companies (submissions 257.012, 257.018 and 257.020) sought that the Zone rules relating to the storage and use of hazardous substances in Flood Areas should not restrict underground petroleum storage systems (**UPSS**). That is, permitted activity rules ICr.59A.1, SCr.55A.1 and INr.60A.1 should only apply to the "aboveground" storage and use of hazardous substances being located where it will not be inundated from 1% AEP flood flows. The reasons given in the submission is:

> *UPSS are installed according to industry regulations and codes of practice (including HSNOCOP 44 and HSNOCOP 45), which, amongst other measures, includes secondary containment system, leak detection systems, monitoring wells, a response plan for substance release, and interceptor and drainage systems. These measures act to minimise any flood hazard risk that in many cases is a better option than the equivalent aboveground structures. It would not be efficient or practical to require a resource consent and associated flood assessment for these underground structures where the land is within the 1% AEP. In addition, UPSS are often located in or below the watertable and in this sense are already inundated.*

7. The s42A Report accepts these submission points and recommends amending rules ICr.59A.1, SCr.55A.1 and INr.60A.1 to read:

> *In Flood Areas, except any Flood Path or Floodway, the aboveground storage and use of a hazardous substance is a permitted activity where it is located within the flood plain and located in a manner so as to not be inundated from 1% AEP flood flows.*

8. The Fuel Companies support these rule changes.

2.1 Further Submission Points on Hazardous Substances

9. The Fuel Companies made further submissions (FS42.001 and FS42.002) opposing the submission of Toka Tū Ake Earthquake Commission (203.068 and 203.069) seeking that storage and use of hazardous substances be a restricted discretionary activity in all flood areas. The Fuel Companies also made further submissions (FS42.003, FS42.004 and FS42.0005) opposing the submissions of Zero Carbon Nelson Tasman (324.008 and 324.024) and Nelson Tasman Climate Forum (512.010) seeking to not allow the storage and use of hazardous substances in natural hazard areas.

10. A restrictive regime requiring resource consent in all instances, or a prohibited activity, is not risk-based as it does not address the acceptability or tolerability of the flood risk to the land use, nor is it effects-based as it does not take into account the management measures for the hazardous substances, as discussed in the paragraphs above. The Fuel Companies support the recommendations in the s42A Report to disallow the submissions noted in paragraph 9 and to not make any changes in relation to those submissions.

11. A number of submitters (608.001, 389.002, 652.002, 888.003, and 869.001) sought that service stations be moved out the Inner City Zone (or within a period of 5 years). These submissions were opposed by the Fuel Companies (FS42.008 to FS42.012) as they are not risk and effects based, as well as being out of scope of PC29. The s42A Report recommendations are to reject the submissions and this is supported by the Fuel Companies.

3.0 Reverse Sensitivity Effects

12. The Fuel Companies service stations in Nelson are not located in the residential zones but several of the service stations are on sites that adjoin the residential zones. The Fuel Companies made several submission points seeking to changes to PC29 provisions to recognise and manage reverse sensitivity effects from residential development on existing lawfully established activities on adjoining sites or zones. The s42A Report rejects the majority of these submission points (257.004, 257.006, 257.007, 257.010, and 257.016) although specific reasons in the s42A Report could not be found.

13. The Fuel Companies accept that reverse sensitivity can't be assessed and managed when the National Policy Statement for Urban Development and Medium Density Residential Standards require councils to enable housing intensification as a permitted

activity in residential zones. However, it is appropriate to address reverse sensitivity effects on neighbouring non-residential activities when a resource consent is required for residential development. In this regard, the s42A Report recommends accepting the Fuel Companies submission (257.008) to include an additional matter of restricted discretion on the General Residential Zone and Medium Density Residential Zone rules REr.17B.3(i)(g) and REr.18B.3(i)(g), respectively, to read:

> *g. the ability to minimise reverse sensitivity effects on any existing non-residential activities on neighbouring sites.*

14. This recommended change is supported by the Fuel Companies, and if the zoning for High Density Residential is retained, the above change should be added to the equivalent High Density Residential Zone rule.

15. For similar reasons as that in paragraph 13, the Fuel Companies made further submissions (FS42.013 to FS42.16) opposing the submissions of Ryman Healthcare (898.023 and 898.030) and Retirement Villages Association (901.022 and 901.029), who seek a new permitted activity rule for retirement villages in the Inner City Zone and Suburban Commercial Zone. The s42A Report recommends rejecting these submissions on the basis that retirement villages should be treated the same as other residential activities Inner City Zone and Suburban Commercial Zone. The Fuel Companies support the s42A Report recommendations.

16. Finally, the Fuel Companies support the s42A Report recommendation to replace the term “bedroom” with “habitable space”, as sought in the Fuel Companies submission (257.011 and 257.017) on the rules for acoustic insulation for residential units in the Inner City Zone (rule ICr.43A) and Suburban Commercial Zone (rule SCr.30C). The change is appropriate as “habitable space” is a defined term in the Plan and ensures that all habitable spaces (including but not limited to bedrooms) are protected from external noise.

4.0 Conclusion

17. The Fuel Companies generally endorse the recommended changes set out in the s42A Reports and do not seek any further changes to PC29. The specific changes supported to the provisions in PC29 are addressed at paragraphs 7 (relating to hazardous substances), 13 (relating to reverse sensitivity effects) and 16 (relating to habitable spaces) of this hearing statement.

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

Regards,

SLR Consulting New Zealand



Miles Rowe
Principal Planning Consultant
miles.rowe@slrconsulting.com
Ph: 027 276 2532