

**BEFORE HEARING COMMISSIONERS DELEGATED BY FAR NORTH
DISTRICT COUNCIL / TE KAUNIHERA O TE TAI TOKERAU KI TE RAKI AT
KAIKOHE**

UNDER the Resource Management Act 1991 (RMA)
IN THE MATTER of the hearing of submissions on the Proposed Far North
District Plan

**MEMORANDUM OF COUNSEL FOR KIWI FRESH ORANGE COMPANY
LIMITED (SUBMITTER 554)**

16 MAY 2025

Solicitor acting:
M J Doesburg
Wynn Williams
PO Box 2401, AUCKLAND 1140
Tel +64 9 300 2600
mike.doesburg@wynnwilliams.co.nz

WYNN WILLIAMS

MAY IT PLEASE THE PANEL

- 1 Kiwi Fresh Orange Company Limited (**KFO**) seeks a timetabling direction from the Panel in relation to Hearing 15D on the Proposed Far North District Plan (**PDP**).
- 2 Specifically, it seeks directions to defer the due date for KFO's evidence and further submitters' evidence in response in relation to Hearing 15D for two weeks. The directions are necessary to enable KFO to fairly and reasonably respond to:
 - (a) the Council's s 42A report on Hearing 14, which will assess whether Kerikeri-Waipapa is an urban environment; and
 - (b) the Council's decision on the Spatial Plan.

Urban environment issue

- 3 As the Panel will recall, KFO participated in Hearing 1 on the issue of whether Kerikeri-Waipapa is an urban environment under the NPS-UD, and whether and how the PDP should give effect to the NPS-UD. These issues are foundational to rezoning hearings. By Minute 7, the Panel directed the Council to provide further information and respond to KFO's evidence.¹
- 4 The current timetabling requires submitters to file evidence for Hearing 15D on 16 June 2025, one week before the Council must file its s 42A report for Hearing 14 (and its response to Minute 7) on 23 June 2025.² This sequencing is inconsistent with the Panel's previous intention that the Council would respond to Minute 7 "prior to residential hearings in a manner that allows submitters to evaluate the material and respond in evidence".³
- 5 The current timetabling means that KFO will be required to call further evidence on the environment issue for Hearing 15D without knowing the Council's position. This risks an inefficient process and is unfair, given the Council will have had over one year to respond to KFO's submission in Hearing 1.

¹ Minute 7 dated 16 July 2024, paragraph 3.

² Minute 19, paragraph 3(e).

³ Minute 9 dated 7 October 2024, paragraph 8.

Spatial Plan decision

- 6 Based on information that is publicly available, KFO's evidence deadline falls two days before the Council is set to issue its decision on the Spatial Plan for Kerikeri and Waipapa, on 18 June 2025.⁴
- 7 The Council has been developing the Spatial Plan in tandem to inform and influence the PDP. KFO's rezoning submission has been captured as Scenario F of the draft Spatial Plan. However, under the set timetabling, KFO's only opportunity to respond to the outcome of the Spatial Plan will be through rebuttal evidence.
- 8 KFO will need to produce its rebuttal evidence under a two-week deadline, during which time it must also address the Council's s 42A report. Absent the two-week extension sought to produce its primary evidence, KFO is left facing an inefficient and unfair process that deprives it of the time reasonably required to respond to the Council's decision.

Request for directions

- 9 A two-week extension of the evidence deadline is justified in the circumstances. Such an extension would not unduly burden the Council, nor would the amendment unduly prejudice other submitters, as KFO's situation is unique: it is a submitter whose zoning submission on the PDP is impacted both by the Council's position on the "urban environment issue" and the Spatial Plan.
- 10 Moreover, it could avoid KFO unnecessarily wasting resources if the Council agrees with KFO on the urban environment issue. The Council will have had over a year to respond to KFO's submission on Hearing 1. The two-week extension KFO asks for is reasonable in comparison.
- 11 For those reasons, KFO respectfully requests that the Panel issue the following directions to amend the hearing schedule for Hearing 15D as follows:

⁴ https://infocouncil.fndc.govt.nz/Open/2025/03/CO_20250313_AGN_2875_AT.HTM

	Submitters to file their evidence	KFO to file its evidence	Further submitters file their evidence in response to KFO	
Hearing 15D: Rezoning Kerikeri-Waipapa	Monday 16 June 2025	Monday 16 June 2025 Monday 30 June 2025	Monday 14 July 2025 Monday 18 July 2025	[Remaining directions to remain the same]

Engagement with the Council

- 12 KFO asked for the Council's views on the above directions. The Council advised that it could support a two-week extension for KFO, but only for economics and planning evidence. The Council considers that evidence not affected by the urban environment issue (anything not planning or economics) should be due by 16 June.
- 13 Conversely, KFO considers it appropriate that the extension apply to *all* its evidence. First, KFO wishes to present its evidence in a single comprehensive package, allowing any matters requiring combined expert analysis to be addressed together. That is the usual method for evidence in planning matters. Secondly, one reason for the revised timetable is to allow KFO to address matters arising from the Spatial Plan decision, due on 18 June. The Spatial Plan decision affects more than just economics and planning.
- 14 The Council indicated a concern that it must respond to numerous rezoning requests in its Hearing 15D s 42A report. That is acknowledged, however, unless staff are considering all evidence simultaneously, they could presumably sequence their review of KFO's evidence without significant disruption. The Council will still have over two full months to respond to KFO's evidence. Importantly, the Council already has access to the detailed assessments provided with KFO's submission, and the technical basis for the proposed rezoning is known.
- 15 KFO respectfully requests that the Panel issue the following directions to amend the hearing schedule for Hearing 15D as set out in paragraph 11.

Traffic modelling

- 16 KFO intends to file expert traffic evidence. KFO's experts have been collaborating with the Council's traffic experts to model the potential traffic effects of KFO's rezoning proposal, using the Council's existing model. The modelling is to be undertaken to provide the best and latest information to the Panel to decide on KFO's submission.
- 17 The modelling might not be complete by the time that KFO's evidence is due (under the extant or revised timetable). In that event, KFO signals that it intends to file addendum traffic evidence explaining the modelling results and will seek appropriate directions if that is required.

Dated 16 May 2025



Mike Doesburg
Counsel for Kiwi Fresh Orange Company Limited