

20 December 2021

Stewart Fletcher  
Consultant Planner  
Ashburton District Council  
Via email



Dear Stewart

**Re: Waitomo Energy Ltd – Request for Further Information**

Thank you for your request for further information on LUC21/0114 to establish and operate a self serve service station on West Street, Ashburton. We provide the following information in response to your questions:

1. *Details as to the location of fencing and its design, including height?*  
The rear of the site will be fenced with a 1.8m high open chain link fence to prevent access from the site to the live railway tracks. The remainder of the site will be defined by low concrete kerbing.
2. *Could you please review your landscaping plan and consider opportunities to establish any larger plantings either along the road frontage or further within the site?*  
Unfortunately, it is not possible to establish larger planting along the road frontage due to the width of the garden bed. We need to maximise the width of the site (which is constrained by the railway lines), which results in a very narrow berm. The landscaping plan has been revised however to include larger plantings on both the north and south boundaries. It is proposed to plant *Griselinia Littoralis* (or similar) which grows to a height of 5-6m and is often used to form a hedge for screening purposes. If left untrimmed, it becomes a small, round headed tree. This will provide some screening of the railway lines as well as providing some groupings of larger trees within the site.
3. *Please provide a detailed site investigation (DSI) with consideration to groundwater levels, particularly as there is at least one bore for public water supply nearby.*  
Please find attached a desktop review letter from Pattle Delamore Partners Ltd (PDP). A full DSI has not been undertaken as the applicant would prefer to do this following successfully obtaining resource consent for the proposal. PDP support this approach and recommend a number of consent conditions to ensure that both a DSI and a Contaminated Site Management Plan (CSMP) are undertaken to ensure any environmental effects from the proposed earthworks are adequately addressed.

Groundwater is estimated to be between 2.5 to 5m below ground level and therefore consent will be sought from Environment Canterbury for dewatering activities and excavation within 1m of highest groundwater levels. Consent will also be needed for construction phase

stormwater discharges. These consents will be sought following the granting of resource consent for the land use activity, assuming this is successful.

In terms of the public water supply wells, PDP note the following:

*The site falls within the groundwater protection zone of three nearby public supply wells. These wells are screened from 17 m bgl to 90.6 m bgl to a maximum depth of 96.6 m bgl, and therefore draw from a deep unconfined aquifer with a shallow aquifer expected to be present above (as described above). One of these public supply wells is located in the up hydraulic gradient direction of the site (L37/0443); two are west of the site within Ashburton Domain.*

Given the depth of these wells and the short construction period, earthworks and construction activities are unlikely to affect the public supply wells.

4. *Please provide a sight line analysis*

A sight line analysis has been included in Drawing No. 610-03. This demonstrates that proposed signage will not affect visibility for vehicles exiting the site. The signage will not affect vehicles entering the site.

5. *Please assess the potential for light spill beyond the boundaries of the site.*

As noted in the resource consent application, four light poles are proposed and these will be directed onto the forecourt and away from adjacent properties, roads and railways. The District Plan only requires that light spill does not fall onto any property within a residential zone. The site does not adjoin a residential zone. The site adjoins a railway yard and State Highway 1. Generally light spill in these areas is welcome in terms of Crime Prevention Through Environmental Design principles. It is noted that Waka Kotahi have provided written approval to the proposal.

6. *Please provide detail to ensure vehicle flow on the site will operate in the intended manner.*

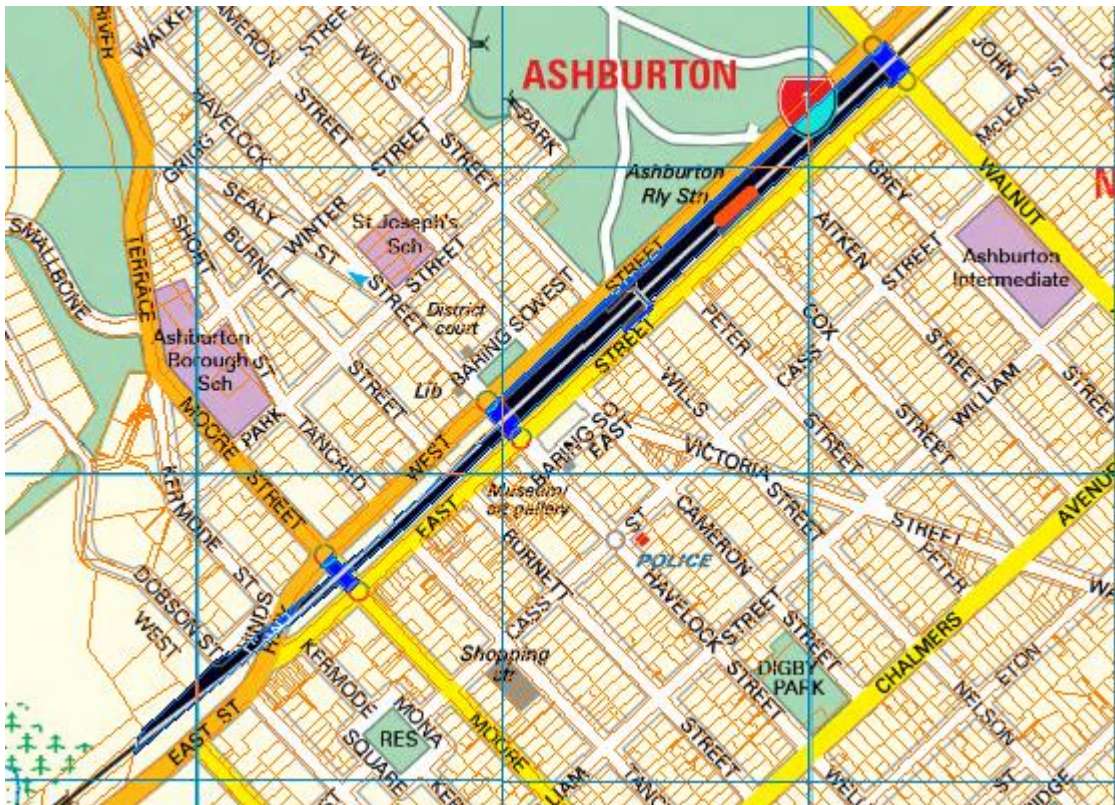
This has been the primary concern of Waka Kotahi who have required that the site operate in a left in / left out arrangement. Light vehicles exiting the site at the southern most vehicle crossing may choose to turn right if it is safe to do so, however Waka Kotahi sought signage to prevent heavy vehicles from undertaking this manoeuvre. Signage has been agreed with Waka Kotahi and is included on Drawing No.s 250-01 (Elevation Sheet) and 210-02 (Proposed Plan). Waka Kotahi have provided written approval on this basis. Please see updated site plans following consultation with Waka Kotahi.

7. *Please confirm Kiwirail is the landowner or if there is an underlying landowner*

New Zealand Railways Corporation is the state owned enterprise that owns the land beneath KiwiRail's railway network on behalf of the Crown. KiwiRail Holdings Limited is a state owned enterprise that owns and operates New Zealand's rail networks and has a long term lease of railway land.

## 8. Definition of site

I confirm that the applicant is not undertaking a subdivision under a company lease system. In terms of the definition of “site” in the District Plan, the site is that area shown on a plan with legally defined boundaries as per Gazette Notice NZG p431. A plan of the area is included below:



It is acknowledged that the Open Space Zone seeks to restrict impermeable surfaces to 5% of the site area. However, the site is currently utilised as railway yard and is already covered by an impermeable surface being a hard compacted metal yard. It is considered that the landscaping proposed will mitigate the visual effects of the service station which has limited built form and is compatible with the surrounding environment which is railway yard.

## 9. Potential effects on the Integrity of the Ashburton District Plan and whether approval may set a precedent for other development in the Open Space Zone

The policy framework for the Open Space Zone seeks to encourage and support the use of private open space and recreational facilities by the public. As noted in the resource consent application, this may be appropriate for some areas of private open space but this site does not lend itself to use for this purpose given its current designation, the proximity to the railway tracks and the lack of safe access to the site from State Highway 1. The objectives and policies of the Open Space Zone do not seek to avoid or limit non recreational activities in the zone.

Land on the eastern side of the railway line (except for a small section directly opposite the site) is gazetted for Development of Public Amenity (NZGZ 2000 p 1897). This land is appropriately zoned Open Space A and is planted with mature trees. It appears that the land designated for railway purposes has been given the same underlying zoning as the adjoining land where it would be more appropriate to have an industrial underlying zoning.

I consider that the existing environment is important context to the application. The Environment Court has described the existing environment as:

*“the existing environment is the environment as it exists at the time of hearing including all operative consents and any consents operating under section 124 of the Act, overlain by those future activities which are permitted activities and also unimplemented consents (which can be considered at the discretion of the authority)”.*<sup>1</sup>

The environment has also been described by the Environment Court in *Outstanding Natural Landscape Protection Society Inc v Hastings District Council* as follows:<sup>2</sup>

*“Logically, it is an unavoidable conclusion that what must be considered is the impact of any adverse effects of the proposal on ... the environment. That environment is to be taken as it exists or, following Hawthorn, as it can be expected to be, with whatever strengths or frailties it may already have, which make it more, or less, able to absorb the effects of the proposal without a breach of the environmental bottom line - the principle of sustainable management.”*

Therefore, it is considered that the proposal must be viewed against the existing environment and the context of the site, which includes consideration of the following factors:

- The site has been used as railway land for very many years and is designated for this purpose;
- The site is located on a busy main transport route (State Highway 1) and service stations are generally located on these roads;
- The site is not located near any residential or sensitive activities; and
- Given the location and environmental setting of the site, any new effects need to be seen through that “lens”.

I consider that having regard to the context of the site, the likelihood of the use of that land for open space and the fact that the objectives and policies of the Open Space Zone do not seek to avoid or limit non recreational activities, the integrity of the District Plan will not be

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<sup>1</sup> *Bay of Plenty RC v Fonterra Cooperative Group Ltd* [2011] NZEnvC 73, (2011) 16 ELRNZ 338.

<sup>2</sup> [2008] NZRMA 8 at [53].

affected. In addition, land to the north of the site is too close to the Walnut Avenue intersection which is being signalised and Waka Kotahi advised that approval would not be given for development. Land to the south is utilised as the container yard for the railways activities. Therefore, other land is not available for development of other commercial activities.

Given the location, setting and the existing environment, it is difficult to see how the establishment of a service station will result in any adverse change to the amenity or character of the area or be a precedent for other development in the Open Space Zone.

#### *10. Effects on consolidation of business areas*

The objectives of the Business Zones are as follows:

##### *Objective 5.1: Business Area Development and Effects*

*The contribution of business activities to the economic and social wellbeing of the district is recognised and provided for, with:*

- 1. commercial activities and retail activities primarily focused to support vibrant and viable centres, and*
- 2. business activities able to operate efficiently and effectively within the District's business zones as subject to environmental standards which reflect their function, location and role.*

##### *Objective 5.2: Quality of Business Areas*

*Business areas that are pleasant places to visit and work within.*

##### *Objective 5.3: Effects of Business Areas on Surrounding Amenity*

*Areas of business activity which do not detract from the standard of amenity in adjoining areas.*

Because the site is a self serve facility with no shop, it will not contribute to a vibrant centre and is considered to be better located on the periphery of the town centre. Service stations are not an activity that will mean that businesses are attracted away from the business zone, that is, it would not lead to an amalgamation of businesses in inappropriate zones.

Land on the opposite side of the railway lines is zoned Business C and used for commercial purposes, therefore it is considered that the proposal is located in an appropriate area which adjoins commercial activities and will not affect their ability to operate efficiently and effectively. Service stations, because of their role and function, are strategically distributed through our towns and cities and are generally located on arterial transport routes. Many service stations, particularly in small towns are located in zones such as residential zones and are able to operate with very little adverse effect on surrounding activities. In this case, the site is a railway yard which is designated for that purpose, located on an arterial route and adjoins Business C zoned land. It is considered that the location is entirely appropriate.



**Written approvals**

Attached is the written approval from Waka Kotahi. The applicant is pursuing written consent of KiwiRail as the requiring authority and this will be forwarded as soon as it is received. As KiwiRail have signed a lease agreement with Waitomo for the use of the land for a service station, this is expected to be forthcoming.

Please do not hesitate to contact me if you require further information.

Yours sincerely

**Incite**

A handwritten signature in blue ink that reads "Fiona Small".

Fiona Small

**Associate**

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