



**Sections 95, 95A – 95F Resource Management Act 1991**

**Report determining whether an application for Resource Consent should be processed as publicly notified, limited notified or non-notified**

<b>Consent number:</b>	<b>LUC21/0114</b>
<b>Applicant's Name:</b>	<b>WAITOMO ENERGY LIMITED</b>
<b>Street Address:</b>	West Street, Ashburton
<b>Legal Description of Site:</b>	Part Reserve 953 Canterbury
<b>Zone:</b>	Open Space A
<b>Application summary:</b>	Land use consent for the construction, operation and maintenance of an unmanned fuel service station on a site zoned Open Space A

**1.0 DESCRIPTION OF THE PROPOSAL**

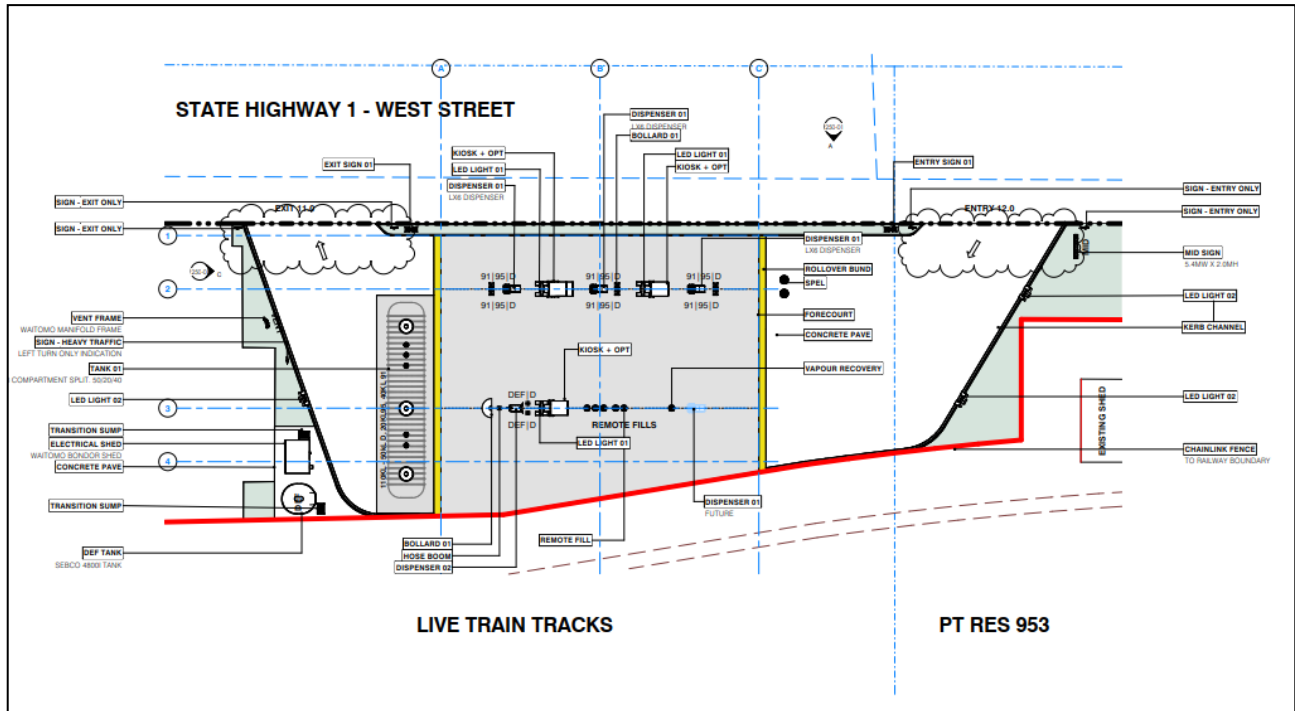
Resource consent is sought to construct and operate a self-serve service station at West Street, Ashburton. The application site is currently part of railway land, used for railway related activities, on the eastern side of West Street.

The proposed service station will operate 24 hours a day, seven days a week and will include the following:

- One underground fuel tank and one above ground Diesel Exhaust Fluid (DEF) storage tank;
- Three fuel dispensers (providing 6 filling positions);
- One high flow diesel and DEF dispenser (providing 2 filling positions);
- Lighting and signage; and
- Electrical shed.

The activity will be self serve and will not include a shop or similar retail activity. It is proposed to establish two vehicle crossings for the service station with vehicle movements proposed to be in a one way flow arrangement. Fencing and landscaping will also be established as part of the proposed activity.

A more detailed description of the proposal is included as part of the resource consent application (pages 5 to 8) and further information dated 20 December 2021. The proposal details provided in the application are relied upon for the purposes of this assessment.



### 1.1 DESCRIPTION OF THE EXISTING ENVIRONMENT

The site is located on railway land, West Street, Ashburton (Part Reserve 953, Canterbury) and is 5.7ha in area. The applicant will lease an area of 1535m<sup>2</sup> for the operation of the service station. The site is gazetted for railway purposes and managed by KiwiRail Holdings Limited. The site is flat and is part of the railway reserve for the Main South Railway Line which now provides for freight only. The area of land to be used for the service station is currently unused railway reserve and includes a silo which will be removed.



Aerial Photograph of the Site



Site Location Plan

## 2.0 PLANNING FRAMEWORK

### 2.1 RELEVANT RULES

The site is within the Open Space A Zone under the District Plan. West Street (State Highway 1) is classified as a Principal Road at this location. The site is designated by KiwiRail Holdings Limited and adjoins the designation for the state highway.



Ashburton District Plan Zone Map

The District Plan describes the Open Space A zone as follows:

#### 6.3.1 Open Space A Zone

*The Open Space A Zone is intended to provide for areas such as neighbourhood reserves, and the Ashburton Domain. These areas provide relief from the built environment and a space for people to undertake passive activities such as walking within close proximity of their place of residence. The zone also includes the range of green strips of land which are valued for their contribution to landscaping for example the central area within Ashburton (Kapuka).*

*Activities within the zone are strictly controlled to ensure limited building development occurs and the openness of the area is retained. The enhancement of visual amenity is of importance within the zone, in particular where it is directly visible from the main thoroughfares through Ashburton (State Highway 1, the Main Trunk Railway and East Street) and Rakaia (State Highway 1). This also provides a visual relief to the building developments established in Business Zones along East Street and State Highway 1.*

On the basis of the zoning of the site, resource consent is required for the following reasons:

- Rule 6.8.5 (Non-Complying Activities) specifies that any activity which is not listed as a Permitted or Restricted Discretionary Activity is a non-complying activity. In this instance the activity has not been listed and as such is considered to be non-complying.
- Site Standard 10.9.5(a) (Maximum Number of Vehicle Crossings) specifies that the maximum number of vehicle crossings on to a strategic or arterial road per site shall be two. In this instance the proposal seeks to establish two vehicle crossings and there are other vehicle crossings along the same frontage such that the maximum will be not complied with.
- Site Standard 10.9.7(a) (Design and Construction of Vehicle Crossings onto Arterial Roads) specifies that the maximum length of a vehicle crossing shall be 9 metres. In this instance it is proposed that each vehicle crossing shall have up to a maximum width of 12 metres. On this basis a restricted discretionary activity consent is required in accordance with Rule 107.2.
- Site Standard 10.9.9(a) (State Highway Access) specifies that any new land use activity that would require direct access to a state highway at a location where there is currently no such direct access, or would require any alteration to, or increase in the use of an existing direct access to such a state highway, shall be a restricted discretionary activity. As the proposal seeks to establish an additional vehicle crossing and will increase the use of the access the proposal will not comply with this standard. On this basis a restricted discretionary activity consent is required in accordance with Rule 107.2.
- Site Standard 13.9.8.1(a) (Number of Signs) specifies that in Open Space zones signage shall be limited to a single sign for each road frontage of any site. In this instance multiple signs are proposed in association with the proposed activity. On this basis a Restricted Discretionary activity consent is required in accordance with 13.7.2.
- Site Standard 13.9.8.2(a) (Size of Signs) specifies that the maximum area of any sign shall be 0.5m<sup>2</sup>. A total area of signage of 10.8m<sup>2</sup> is proposed. On this basis a Restricted Discretionary activity consent is required in accordance with 13.7.2.
- Site Standard 13.9.8.3(a) (Location of Signs) specifies that signs shall be placed no more than 3 metres above ground level or so that no part of the sign is higher than the eaves of a building to which they relate, whichever is the lesser. In this instance the freestanding sign is proposed to be 5.4 metres in height. On this basis a Restricted Discretionary activity consent is required in accordance with 13.7.2.
- Rule 16.7.4(a) specifies that it is a non-complying activity to store hazardous substances in quantities exceeding Appendix 16 – 1 of the District Plan. In the Open Space zone the limits are 1,200 litres above ground storage and 10,000 litres below ground storage. It is proposed to store up to 110,000 litres of fuel underground. On this basis a non-complying activity consent is required under this rule.

Overall, a non-comply activity consent is required for the proposed activity.

In assessing relevant rules and plan provisions it is noted that consideration has been given to other relevant standards for the Open Space A zone including impervious surfaces. With regards to impervious surfaces the applicant has confirmed that the area of the proposed activity will remain part of the larger site and as such will comply with permitted maximums.

## 2.2 NATIONAL ENVIRONMENTAL STANDARDS

The site is listed on Environment Canterbury's Listed Land Use Register (LLUR) as the Toll/Tranzlink Container Transfer Site. The hazardous activities and industries (HAIL activities) are listed as F6 – Railway yards, including goods handling yards, workshops, refuelling facilities or maintenance areas.

The applicant has advised that a Detailed Site Investigation (DSI) has not yet been undertaken for the site, however soil sampling will be undertaken to inform the appropriate soil disposal location prior to soil being removed from the site. They have also provided a desktop analysis as part of a response to a request for further information.

Under the National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health a Discretionary Activity consent is required; this is on the basis that a Detailed Site Investigation has not been provided such that section 11 of the Standard is the applicable provision.

## 3.0 NOTIFICATION ASSESSMENT (SECTIONS 95A, 95C-95D)

### 3.1 PUBLIC NOTIFICATION ASSESSMENT

#### 3.1.1 Request for public notification (Section 95A(2)(b))

The applicant has not requested that the application be publicly notified

#### 3.1.2 National Environmental Standard or District Plan rule requiring or precluding notification (Section 95A(2)(c) and Section 95A(3)(a))

In terms of s95A(2)(c) and 95A(3)(a) there are no rules in the relevant District Plan, Regional Plan or NES which require or preclude public notification of the application.

#### 3.1.3 Effects on the Environment to be disregarded (Section 95D Assessment)

##### 3.1.3.1 Effects that must be disregarded for public notification purposes

- A) Effects on persons who own and occupy the land in, on or over which the application relates, or land adjacent to that land

In this case, it is considered that adjacent land includes the following, properties because they directly adjoin the site, are designated and the proposal has the potential to effect the safe and efficient operation of those activities. The effects on these properties have been disregarded for the purposes of public notification assessment.

Table 1	
Address	Legal Description
State Highway 1	NA
Main Trunk Railway	NA

B) Any effect on a person who has given written approval to the application

The written approval of the following persons has been provided:

<b>Table 2</b>		
<b>Address</b>	<b>Legal Description</b>	<b>Owner / Occupier</b>
State Highway 1	NA	NZ Transport Agency - Owner
Main Trunk Railway	NA	Kiwirail – Owner / Occupier

Written approvals from the parties listed in Table 2 have been provided and therefore any adverse effects on these persons are now disregarded.

### **3.1.3.2 Effects that may be disregarded – Permitted Baseline Assessment**

The permitted baseline refers to permitted activities on the subject site. In this case due to the zoning of the site and the provisions for permitted activities being very limited it is not considered that there is a realistic permitted activity similar in nature to the proposed. As such it is not considered that there is a relevant permitted baseline to take into consideration in assessing the potential effects of the proposed activity.

While there is not considered to be a relevant permitted baseline, it is recognised that the receiving environment includes factors that should be taken into account. This includes the application site being designated for railway purposes. In addition, the site is characterised by what can be best described as industrial like activities. This includes container storage, areas for heavy vehicles, a silo, storage buildings, railway lines and the area being generally maintained to an industrial like appearance. This has been taken into account in assessing the potential effects of the proposed activity.

### **3.1.4 Adverse Effects Assessment (Section 95A(2))**

Having regard to the above and after an analysis of the application, the following assessment addresses the adverse effects of the activity on the environment for public notification purposes.

As a non-complying activity, the full range of adverse effects must be considered.

#### Amenity / Character

Resource consent is sought to establish a self-serve petrol station. The facility will be limited in scale with no canopy or roof structure over the refuelling area and also no associated shop or retail area. Signage and the formation of the site will ensure the site is recognised as a fuel stop but it is also considered that the appearance of the activity is lesser in scale compared to other fuel stops which can include more substantial structures and signage.

The application site is currently utilised for railway purposes including the shunting of carriages, their loading / unloading, container storage, two older storage buildings, portacom buildings used as offices and the railway lines themselves. The site is open and generally industrial in appearance with landscaping limited to plantings along the edge of the site adjoining West Street. West Street is a state highway carrying larger volumes of traffic across the day and it is also noted the intersection of West Street and

Walnut Avenue is currently being upgraded to a signalised intersection. On the opposite side of West Street from the site is the Ashburton Domain and Gardens.

The application site is zoned Open Space A and the proposed activity will be substantially different than what is anticipated through the zoning, but it is also considered that the proposal will not be a significant departure from the current amenity and character of the site.

It is considered that the nature of the proposal, including being limited in built form and a reduced scale of appearance, will mean that potential effects on the amenity and character of the area will only be minor in nature when compared to the existing environment. This is further demonstrated through the designation of the application site for railway purposes. Overall, it is considered the proposal will have an effect on the amenity and character of the area, but any such affect will be no more than minor.

### Transport

The proposed activity includes the formation of two vehicle crossings which will enable traffic to flow through the site in a one-way direction. Information has been provided to demonstrate that vehicles will be able to suitably manoeuvre through the site with the intention to enter and exit the site via a left turn from / onto West Street. Information has also been provided to demonstrate that adequate site lines will be available and that there is a suitable separation distance between the site and the West Street / Walnut Avenue intersection.

West Street is managed by the NZ Transport Agency as road controlling authority for State Highway 1. The applicant has consulted with the Agency and their written approval has been provided. For the purposes of this notification assessment any potential affects on State Highway 1 have been disregarded pursuant to Section 95E of the Resource Management Act 1991. Based on written approval being provided, and any potential affects on West Street required to be disregarded, it is considered any potential transport related effects will be less than minor and in doing so it is noted that adequate information has been provided to ensure the functionality of the site from a transport perspective.

### Landscaping

As part of the resource consent application a landscape plan has been provided. The landscape plan includes the establishment of plantings along the front boundary of the site and also on the side internal boundaries. No planting is proposed on the rear boundary adjoining the railway line area. As part of the resource consent application the applicant has also confirmed that all internal fencing will be of a chain link construction.

As the site is directly opposite the Ashburton Domain, there is a general desire for landscaping to compliment the character established by the Domain area and generally enhance amenity values. The landscape plan has been reviewed and suggestions have been made that the density of plantings could be increased. This includes that the centres of the Lomandras could be reduced and Lancewoods could be added. It has been noted that lancewoods would have a minimal impact on road safety as any bulk they have would be at least 3-4 metres above ground level.

Generally, it is noted that landscaping is proposed to be provided and that in principle the provision of these areas is considered appropriate, but opportunities exist to further enhance the landscaping of the site through changes in density and the range of planting proposed. This is a matter which is considered to be able to be suitably addressed by way of condition of consent such that any landscaping related effects are generally considered to be no more than minor.

### Stormwater

As part of the resource consent application the applicant has detailed proposed controls for stormwater on the site. Proposed measures are typical of a fuel stop site such as interceptors etc. On the basis of the



measures proposed as part of the activity it is considered that any potential stormwater related effects will be less than minor.

### Hazardous Substances

As part of the proposal an underground fuel tank would be established storing up to 110,000 litres of fuel. In addition, an above ground storage tank for a fuel additive will be provided but information provided suggests the additive is of lesser hazardous risk. Fuel storage proposed is typical of fuel stop or service station such that any potential risks can be suitably controlled through adherence to appropriate standards for the installation and maintenance of such fuel tanks. There are not considered to be unique characteristics about the site which would present some form of danger or risk associated with the storage of the fuel. Overall, it is considered that provided appropriate controls are in place for the installation and operation and maintenance of the proposed fuel storage that any potential affects will be less than minor in nature.

### Contamination

The application site has been identified as potentially subject to contamination which is reflective of the use of the site for railway purposes. A detailed site investigation has not been provided as part of the resource consent application and instead an initial desktop assessment has been provided with the intention that a detailed site investigation will be undertaken prior to the construction of the proposed activity.

It is preferable that a detailed site investigation is provided prior to consideration of the approval of the resource consent application but it is recognised that suitably worded conditions can be imposed to require the provision of a detailed site investigation prior to the commencement of any works on the application site.

On the basis of suitable mechanisms being available and put in place to ensure that the development of the site cannot occur until a detailed site investigation has been undertaken and any remedial works will be completed it is considered that any potential effects with regards to contamination will be no more than minor.

### Light Spill

Lighting will be established so that the proposed activity will be able to operate during night-time hours. The type of lighting necessary will be to ensure safe operation of the site such that the site will be illuminated but it is considered the visual appearance of the site will be different compared to a site which may include a canopy retail shop and illumination of fascia of the canopy. It is also considered that such lighting is able to be suitably orientated on the site to ensure any potential risk from glare and light spill do not arise and this is also able to be controlled by way of condition of consent.

On this basis it is considered any potential lighting related effects will be less than minor and will also be generally consistent with the nature and character of the area including that there are no sensitive activities located close by.

### Odour

It is recognised that service stations can include odours, particularly the smell of petrol. Such an issue is more suitably controlled by way of regional council provisions such that it is considered the potential effect will be controlled by other means, but it is also generally noted that such issues are able to be suitably controlled as is reflected by fuel stops and service stations operating in a variety of locations.

### **Summary**

In summary, having assessed the adverse effects of the activity on the environment, I consider that the activity will overall have a minor adverse effect on the environment as discussed in section 3.1.4.

### 3.1.5 Do special circumstances exist (Section 95A(4))?

It is recognised that the proposed activity is in a unique position from a planning perspective. The activity is proposed to establish on a property which is considered to be of a more industrial like nature which is also designated for railway purposes, but the site is also zoned Open Space which establishes a different expectation as to potential land use activities.

It has been determined above that any potential environmental effects from the proposed activity will be no more than minor but it is considered that a higher level of recognition also needs to be given to the zoning of the site including managing any expectations as to how the site might be potentially developed. It is considered that a more robust framework is required in order to ensure that an appropriate level of assessment and public consultation can potentially occur as part of determining the appropriateness of establishing the proposed activity.

In addition, it is considered that while the nature of the proposal is relatively unique, particularly including a low level of built form, the proposal would be establishing a commercial activity within an open space zone. This could set a precedent for other parts of the same site and zone to be developed for commercial purposes. This could include leading to impacts on the integrity of the district plan and again it is considered more appropriate to include public consultation so that the community has the opportunity to provide feedback on the proposal and its potential long-term impacts on the nature and character of the local area.

On the basis of the above, it is considered that the proposal is unique and that special circumstances exist which necessitate the application of section 95A(9) of the Resource Management Act and that it is more appropriate for the proposal to be processed on a publicly notified basis than not.

## LIMITED NOTIFICATION ASSESSMENT

### 4.1.1 Is there an NES or District Plan rule requiring limited notification?

There are no rules in the relevant District Plan/ Regional Plan/NES that would require or preclude limited notification of the application.

### 4.1.2 Are there holder(s) of customary rights order who may be adversely affected by the activity? (s 95(f))?

No

### 4.1.3 Are there affected persons who the activity will have a minor or more than minor adverse effects on (s 95 (e))?

The following persons have provided their written approval to the activity:

Table 3		
Address	Legal Description	Owner / Occupier
State Highway 1	NA	NZ Transport Agency
Main Trunk Railway	NA	Kiwirail

Written approval has been obtained from all the persons who are considered to be adversely affected by the activity, as such, the application is not required to be subject to limited notification as there are no affected persons.

#### 4.1.4 Limited Notification Assessment Conclusion

It is considered that this application should be processed without limited notification because all adversely affected persons have given their written approval.

## 6.0 Conclusion

### Public Notification

- Pursuant to section 95A(4), there are special circumstances that warrant public notification of the application. These special circumstances are detailed in Section 3.1.5

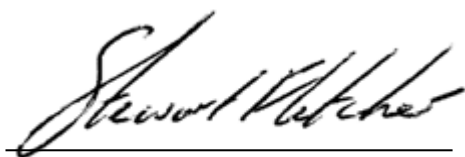
## 7.0 Recommendation

### Public Notification

That for the reasons set out below, this application be processed with public notification pursuant to Sections 95A-95F of the Resource Management Act 1991.

- There are special circumstances [s95a(4)];

**Signed:**



Reporting Planner

**Date:** 10 March 2022

### **Decision:**

The above application LUC21/0114 has been considered under delegated authority and has been determined to be processed with public notice pursuant to sections 95A-95F of the Resource Management Act 1991.

**Signed:**

Ian Hyde  
District Planning Manager

**Date:**



14 March 2022

**Signed:**

Jane Donaldson  
Group Manager Strategy and Compliance

**Date:**

*Resource consent application: LUC21/0114  
Address: West Street, Ashburton  
Notification Report*