

**BEFORE THE ENVIRONMENT COURT**

**Decision No. [2016] NZEnvC 156**

IN THE MATTER of the Resource Management Act  
1991 and of an appeal under  
Section 121 of the Act

BETWEEN Z ENERGY LIMITED  
  
(ENV-2015-AKL-000122)

Appellant

AND WESTERN BAY OF PLENTY  
DISTRICT COUNCIL

Respondent

Hearing at: Tauranga, 25-27 July 2016 inclusive of site visit

Court: Environment Judge JA Smith  
Environment Commissioner ACE Leijnen  
Environment Commissioner SK Prime

Appearances: R Devine and A Theelan for the applicant (Z Energy Ltd)  
J Caldwell and R Krzanich for Western Bay of Plenty  
District Council (the Council)  
M Chapman for NZ Kiwifruit Growers Association  
(Kiwifruit Growers)

Date of Decision: **17 AUG 2016**

Date of Issue: **17 AUG 2016**

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**DECISION OF THE ENVIRONMENT COURT**

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**A. Consent can be granted for the establishment of a service station at 780 State Highway 2, Paengaroa subject to amended conditions based on "A" attached and including convenience store, forecourt under canopy, LPG swag and go facilities, underground tanks and AP interceptors. This will involve ancillary activity signage, lighting, carparking, landscaping, site works, earthworks and crossings. It will also include demolition of buildings and removal of some avocado trees within the site area.**

- 1. The Consent and amended conditions in terms of this decision are to be provided within 20 working days.**
- 2. The parties then have 10 days within which to comment upon those provisions.**
- 3. If the parties are able to reach agreement, they are to advise the Court within a further 5 working days.**
- 4. If the parties are unable to agree, the applicant is to file their preferred consent with conditions setting out the reasons for difference and their preferred outcome.**
- 5. The other parties then have 10 working days to provide their comments thereon and the Court will then proceed to make a final decision.**

**B. Costs are reserved pending final decision in this matter.**

## **REASONS FOR DECISION**

### **Introduction**

[1] Z Energy Limited (**Z Energy**) has appealed a refusal of consent for the establishment of a service station on the site of a former fruit and vegetable and general grocery retailer at the junction of State Highway 2 (SH2) and State Highway 33 (SH33) (**the Fruitlands Site**).



[2] The application follows the establishment of the new Tauranga Eastern Link (TEL), which terminates at a large roundabout approximate to the former Fruitlands Site.

[3] In summary, the application is to establish and operate on the 9,605m<sup>2</sup> site a *Highway Service Centre* comprising motor fuel sales, retail convenience shop and associated facilities, including:

- (a) a canopy covered (621m<sup>2</sup> 8-lane service station forecourt accommodating four fuel pump islands;
- (b) a 220m<sup>2</sup> shop;
- (c) signage, including:
  - (i) a 12m high free-standing "prime" sign adjacent to the SH2 frontage;
  - (ii) a free-standing 2.4m high x 1.15m wide "price board" sign;
  - (iii) a free-standing 2.4m high x 1.15m wide "poster board" sign;
  - (iv) entry/exit signs;
  - (v) ancillary signage attached to the service station shop;
- (d) underground petrol and diesel tanks;
- (e) LPG bottle swap facility;
- (f) landscaping, including artificial shelter fencing atop an acoustic fence reaching an overall height of 7.2m.

[4] Annexed hereto and marked "B" is a copy of the Applicant's revised proposal for the Fruitlands Site.

[5] A truck stop area at the rear of the site and forming part of the original resource consent application has been removed from the proposal. The service station will occupy some 6,100m<sup>2</sup> of the site. The remaining area (to the rear of the service station) will be retained as an avocado orchard.



### The issues

[6] Many of the interested parties' issues have been resolved and the remaining parties are the Applicant, District Council and NZ Kiwifruit Growers Inc. The matter has essentially become one of principle and that is whether a service station should be able to establish within the rural zone.

[7] The parties agree the application meets at least one of the thresholds under s104D of the Resource Management Act 1991 (the Act). Accordingly, the issues are:

- Do the relevant planning provisions suggest the proposed activity, subject to appropriate conditions, is appropriate?
- Do potential cumulative effects make the proposal inappropriate?
- Will a grant of consent have an effect on the integrity of the Western Bay of Plenty District Plan (**the Operative Plan**) by enabling future consents to establish commercial and/or industrial activities within the Rural zone?

### The Council decision

[8] Overall, the Court must be satisfied that the proposal will achieve the purpose of the Act. The Council decision refused consent, when viewed in the context of the Operative Plan, on the basis that the application passed neither of the thresholds in s 104D of the Act, namely:

- (a) that the service station will create more than minor actual or potential adverse environmental effects and;
- (b) that the granting of the consent to the proposal would be contrary to the objectives and policies of the District Plan.

[9] We are required by s 290A of the Act to have regard to the Council decision. Having failed to meet either limb of the threshold test, the Council did not go on to consider the matter substantively. Nevertheless, it would be fair to say that in considering the various aspects of both the Plan and the effects, they



largely dealt with the merits of the application. Given the concession at this hearing that the application at least passed the effects threshold under s 104D, the Council decision is of no particular assistance.

[10] Although it is now conceded by the Council that the effects of the activity are no more than minor, and can be addressed by suitable conditions, the Council is still arguing that the adverse effects are inappropriate given the concept of a *tipping point* being reached in terms of the cumulative effects on the environment.

[11] As we understand the Council's planning witness, Mr De Luca, granting this consent will:

- (a) potentially lead to the creation of adverse reverse sensitivity effects, with the potential to unreasonably constrain the efficient use and management of productive rural land for primary productive purposes;
- (b) the proposal will contribute to a gradual detracting in the rural character and amenity values currently prevailing in the locality and enjoyed by people living and working in the area; and
- (c) it will undermine the viability and integrity of the existing industrial and commercial zones in which the Z Energy proposal would be either permitted or discretionary activity respectively.

[12] Given those conclusions, he reaches an earlier conclusion in his evidence:

I consider the current proposal to be contrary to the sustainable management of resource purpose of the RMA.

[13] Elsewhere in his 32-page brief he makes various comments, one of which appears to be a conclusion that the application is contrary to the objectives and policies of the Plan:

It is my opinion that consent to the Z Energy proposal would be directly contrary to the current Growth Strategy for the sub-region as set out in the Regional and District planning instruments. That strategy and rationale which underlies it has the community's backing, and is continuing to be reinforced through the consistent



advice by the Council planners as to potential applicants' wanting to establish non-rural uses in the Rural zone.

[14] It is common ground that the application is not consistent with certain objectives and policies of the plan. Given it passes the effects threshold under s 104D, it is the degree of consistency with the objectives and policies that is relevant to the assessment under s 104 rather than whether it is contrary. As a non-complying activity it would be unusual if it were not inconsistent with some objectives and policies.

### **The existing environment**

[15] Adverse effects are to be assessed against the environment into which they are to be introduced. The Fruitlands Site was utilised for fruit and vegetable sales, and the sale of South African product and general dairy items. Fruitlands has operated on the site for some 30 years. There was no detailed discussion of the former usage of the site, but it is clear that it has operated as a commercial use on this site for several decades.

[16] There is no doubt whatsoever that, although the new activity would include elements of the former commercial activity on the site, particularly the shop activity, it would increase the scale (in terms of the number of vehicles visiting) and also the hours of operation, given that the Fruitlands Site previously operated largely within the hours of daylight. It would also cover a larger area of the site than the previous commercial activity, and sell fuels.

[17] There is an interesting comparison provided by Mr De Luca with another service station, situated in a rural area at Pongakawa some kilometres to the south on the Whakatane State Highway. This has recently been upgraded with the addition of larger facilities, provision for a drive-thru take-away facility and expanded store. That was granted a non-complying activity consent. That property is also zoned rural. There is also another service station several kilometres to the south on SH33 to Rotorua in Pongakawa that, although it is currently standalone, the land is zoned for industrial use as part of a very small



node inserted into a largely rural area including the service station, the Comvita site, several rural depots and kiwifruit facilities.

### **The existing rural environment**

[18] There is no essential dispute between the parties as to the nature of this rural environment. It is clearly mixed, and has a range of activities from recreational (being the golf course on the opposite side of the road) to the Weigh Station associated with the TEL and the significant infrastructure relating to the TEL itself. There are also areas of horticultural use and general farming, together with the Rangiuru freezing works, a recreational area and significant tourist and horticultural activities situated several kilometres to the north on Te Puke Road, formerly SH33. There is also the main trunk railway line to the north-east. Apart from the introduction of the TEL and the Weigh Station, the immediate contextual environment remains as it was when Fruitlands operated.

[19] The Fruitlands Site was close to a T-intersection between the Whakatane and Rotorua highways (SH2 and SH33) on a road carrying the combined traffic volume towards Tauranga. Completion of the TEL has introduced a major bridge structure to cross the trunk line, and a very large roundabout with a Weigh Station situated upon it just to the north of the site.

[20] This immediate locality has always been focussed around the major intersection of the two roads and the Fruitlands Site had a large parking apron in front of it. In some ways the TEL has softened this infrastructural appearance with extensive planting and the large roundabout. The road immediately in front of the Fruitlands Site only carries Rotorua traffic now, but is still visible from the entries and exits to the TEL. The introduction of the Weigh Station has, of course, introduced another structure into it, but overall we have concluded that it has largely retained its existing character, which is rural – albeit focussed around the major infrastructure of the state highways.

[21] The significant changes the TEL has introduced to the north towards Tauranga are not so notable in the immediate vicinity of the Fruitlands Site. Given



the removal of the Whakatane traffic from immediately in front of the Fruitlands Site, the overall character has probably remained similar.

### **Rural Character**

[22] It is clear that the Bay of Plenty, along with most rural areas in New Zealand, varies in rural character depending on the particular place one is examining. The Court has frequently commented that not all features of rural character are going to be experienced in the same way in every place.

[23] This is particularly true in the Western Bay of Plenty because of the significant impact the horticultural industry and its infrastructural requirements has upon the rural character. This has included the planting of quite small and enclosed areas with significant shelter belts, and the construction of very large utilitarian buildings close to boundaries together with associated parking.

[24] In addition to this, on main transport routes such as SH2 and SH33 the infrastructure to permit freighting by road and rail has meant that there are additional utilitarian infrastructural features of which a number can be viewed just to the north of this site towards Te Puke at the Seeka site. This includes the storage of pallets, machinery, rail lines associated with transportation and areas for trucking movements. It has also led to the introduction of other elements such as the Comvita site just to the south, which has both tourist and manufacturing functions and the Kiwifruit tourism site together with vintage car museum at Rangiuru.

[25] Nevertheless, we conclude that the immediate area still remains rural in character, albeit one particular to the Western Bay of Plenty and one having a particular character along major roading corridors such as SH2 and SH33. That existing environment is of course contributed to by the Fruitlands Site and its activities, which both reflected and contributed to this modified horticultural rural character.





### Approach to assessment

[26] Section 104 of the Act sets out the matters to be considered on application for Resource Consent. We have already identified s 104D relating to a non-complying consent, and it is acknowledged that it passes at least one of those thresholds. Therefore this Court on appeal must (subject to part 2) have regard to s 104(1):

- (a) actual potential effects on the environment allowing the activity;
- (b) relevant provisions of, in this case regional policy statement, relevant regional plans provisions and the Operative District Plan; and
- (c) any other matter that is relevant and reasonably necessary to determine the application.

[27] Having identified the environment against which the application is to be assessed we now deal with the matters listed in s 104. We will address the overall evaluation under Part 2 at the end of that process. In doing so we acknowledge that the process itself under Part 2 is coloured by the local interpretation of the national requirements as set out in the objectives policies and other provisions of the relevant plans.

### Effects

[28] The environment against which the application was assessed is the existing environment, overlaying with such activities as permitted in terms of the plan. The major issue in this case was whether further applications for consent of either a discretionary or non-complying nature could leverage off this application making a precedent. Clearly this is not an effect which can be taken into account directly given it requires further applications for consent to be made and grants of those consents by the Council. We cannot assume that such consents would ever be granted; therefore these are not effects which can be taken into account in assessing this appeal.

[29] The following effects were identified as potential effects of this application:



- Reverse sensitivities relating to spray drift issues.
- The erosion of the rural character of part of the rural zone.
- A range of other minor effects including noise, traffic impact, visual impact, all of which the parties agreed could be addressed by conditions of consent and were, as a result, minimal.

### ***Reverse sensitivity***

[30] There was concern that there may be spray drift occurring from neighbouring kiwifruit orchards, which may lead to complaints by persons either working at or visiting the service station. In due course such complaints may constrain the activities of those kiwifruit farmers. By the time of the hearing this concern had receded somewhat, and the neighbours had been satisfied with further conditions proposed for the provision of a 7.2m high wind screen along the sides and around the rear of the site, comprehensive planting, and a no complaint covenant.

[31] The New Zealand Kiwifruit Growers Incorporated (**Kiwifruit Growers**) retained an interest in the hearing and supported the Council's refusal of consent. They noted there was some 7,483 canopy hectares within the Western Bay of Plenty area with an average size of each lot less than 4 hectares. They highlighted the economic contribution of the kiwifruit industry to the district and to its social character. They say the Z Energy station has no part in the rural environment at all.

[32] Curiously, the Kiwifruit Growers acknowledged the importance of the TEL, and in fact SH2 and 33, to the economic viability of the Western Bay of Plenty. The improvement in the road was in no large part due to concern within the kiwifruit and forestry industries as to delays in goods reaching the port.

[33] While there is potential for spray to reach the site, the prospect of this occurring with proper application procedures is a low probability. We are satisfied that there is only a minimal chance of a visitor to the site detecting any spray, let



alone being affected by it. This is due to the limited duration of visits, and the focus of the service station being near the road frontage.

[34] Staff have greater potential for exposure to and identification of spray drift, given they will be on site for much longer periods. However, we conclude that:

- (a) levels of exposure from proper application are well below health effect levels;
- (b) are unlikely to be detectable;
- (c) are well addressed by the extra mitigation now agreed; and
- (d) staff are likely to be less sensitive than residents in the same area.

[35] If inappropriate spray procedures are adopted, we accept spray may be detected and complaints could occur. If this was the case, then it cannot be appropriate that this Court should take into account applications that occur in breach of the Air Plan, Regional and Industry controls. Such application could impact on users of the highway as well as nearby residents.

[36] Overall, we are satisfied that the conditions of consent ensure that any reverse sensitivity effect is minimal and can be disregarded.

***Are service stations an urban activity?***

[37] The parties endeavoured to assign the TEL either an urban or rural character. We are not satisfied that the TEL, or in fact the state highways, can be said to have urban character or rural character. Roads clearly occur both in the urban and rural areas and in fact in all zones within a district. Similarly, activities which support those using the roads, particularly service stations, occur on major roads throughout New Zealand.

[38] Mr Dryburgh, for Z Energy, confirmed that the key factor for location of a service station was the number of passing vehicles; and in respect of this



motorway this was the first opportunity where traffic was slowed and (due to the access constraints placed on the TEL) was able to access such facilities.

[39] We have struggled to understand why a service station is inherently an urban activity as opposed to a rural activity. Service stations service all zones and people from all areas. It is a permitted activity within the industrial zone, but we do not accept that it is an industrial activity. We accept that generated environmental effects may be appropriately managed as a permitted activity in an industrial zone, but this does not make it an *industrial* activity. We have only to look at the definitions in the district plan to confirm this. A service station sells products, so we consider that it would fit within the general definition of retail and thus be in a commercial zone with appropriate management. Nevertheless, it is not inherently either urban or rural. The two nearby service stations serve to prove the point. At Pongakawa the land is zoned rural, and that at Paengaroa it is zoned industrial, yet both service the arterial road to which they are annexed.

[40] From the landscape evidence given, particularly that of Mr Mansergh, we understand the argument to be more that the service station introduces more urbanising elements. In particular these seem to consist of:

- (a) large scale lights and signage;
- (b) a built form with large impermeable services for forecourt together with commercial building;
- (c) easily recognised layout and set up to enable quick identification by drivers;
- (d) branding.

[41] Mr Mansergh acknowledged that there were other activities within the rural area which might have similar features, including kiwifruit storage and pack houses. He then acknowledged that there was the necessity for visual clues to understand what relationship a particular activity had to the rural area. Under questioning he acknowledged that there were difficulties with people who are not



familiar with the area in identifying some of those visual clues indicating a pack house rather than some form of industrial or commercial storage or operation.

[42] We have concluded that the urban-rural dichotomy is a difficult one to apply to elements that support rural industry and infrastructure such as the state highway system and motorways. However, we have also concluded that the activity in question is a commercial activity, although involving the sale of fuels. In that regard it is consistent with the commercial activity which has occurred on this site more recently.

[43] As the Court understands it, it is a combination of the service station features which leads Mr Mansergh to assert that, if consented, this environment will have reached a tipping point where further commercial development would change the nature of the area to urban rather than rural.

[44] We prefer the analysis of Mr Coombs, that the area will retain rural character, for these reasons:

- In terms of the environs of the Fruitlands Site, on balance the area retains a rural character very similar to that which existed prior to the construction of the TEL.
- Although there has been the construction of the Weigh Station for the TEL, the removal of the Whakatane traffic onto another part of the intersection has reduced the impact of traffic upon the Fruitlands Site and given a more open aspect to its frontage. The site remains unchanged on its other three boundaries.
- The Fruitlands Site is within an area well lit for roading.

[45] The introduction of a service station on the Fruitlands Site would replace an existing commercial building and an existing home with the buildings, lights and signage for a service station. Given the isolation of that activity, we do not believe it would be necessarily read in conjunction with the Weigh Station because of the separation of the carriageway of the road and the physical distance and bund planting mitigating that building. Overall this immediate area, and the wider area,



is dominated by open space and horticultural/agricultural/natural activities. It is our conclusion that the scale of the signage and lighting for the station is not sufficient to change the overall character of the area, either in isolation or cumulatively with the other effects or changes in this area.

***Is rural character maintained?***

[46] The creation of the new multi-entry roundabout has de-emphasised the connection of this particular area with Rangiora slightly to the north, and the frontage of the site is now dominated by the overall planted nature of the TEL roundabout interchange. We accept that the immediate area will be highly lit during the evening due to the introduction of a significant number of light standards to support the new roundabout intersection design.

[47] The Fruitlands Site is the only site in the vicinity upon which commercial activity has been conducted within the last two decades. Although the scale of that activity will change, it has nevertheless been an area which has been subject to commercial activity for a considerable period, with a broad service function.

[48] Any application to utilise another site for commercial activities in this area faces a number of constraints in terms of establishing similar characteristics. This includes lights, slower traffic movements and the Weigh Station. These are visual signals of a major intersection, not urbanisation. Obtaining access to the roundabout, the subject property is just off the edge of the interchange being the continuation of SH33 towards Rotorua. It is clearly visible as traffic approaches the roundabout both from Whakatane, Tauranga and Te Puke. Any property that would be closer to the interchange does not have road frontage, and properties further away immediately lose visibility from those who are approaching the interchange.

[49] In any event, all of those properties are zoned rural and have rural activities conducted upon them. Accordingly, we have concluded that any cumulative effect which might occur from attempting to leverage off the service station would be as a result of further discretionary or non-complying activities. These would require the Council to consider the question of effects and this must



include cumulative effects as defined in the Act. Beyond this, of course, there is always the potential for a plan change which may seek to introduce some form of zoning. That again would be subject to rigorous testing as to whether such zoning was appropriate. Accordingly, in both cases we see the potential for any adverse effects from commercial activities in nearby sites to be particularly slim. Any application would be assessed on a case by case basis as required under the Act.

[50] Service stations are stand alone activities, but as such can be magnets for other commercial activities. However, of themselves, they do not rely on other commercial activities. We accept the applicant's evidence as to their commercial nature, and as such the activity can be safely accepted to be contained to one site. This *one off* characteristic gives us some comfort regarding the potential for cumulative effects.

#### **Other effects**

[51] It was acknowledged by the parties that the other potential adverse environmental effects are no more than minor. It is proposed to have conditions to control further issues such as noise, traffic management, dust and visual amenity. With the imposition of the conditions that have been prepared by the applicant and agreed by the Council, we conclude the effects from the activity itself would be minimal. This is subject to several additional matters we raise later in this decision. We assume suitable conditions on these issues can be established.

[52] When viewed cumulatively with all other effects, we consider that the overall visual amenity impact is likely to be minimal and largely consist of better visibility into this site due to the erection of lighting and signage. Any wider effect beyond the immediate roadway is difficult to envisage. We are not able to reach any conclusion that there would be any visual effect beyond the immediate environs of the interchange, and accordingly consider that the cumulative effects are minimal.



### ***Planning provisions***

[53] There are in place operative Regional and District Plans, and a Regional Policy Statement. We were also told the National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health Regulations 2011 (NESCO) is also relevant given the past use of the site. The provisions of the NESCO were not seen as relevant to the determination of this appeal.

[54] A number of standards that would apply in the Rural zone under the operative Bay of Plenty District Plan (**District Plan**) are infringed (eg: infringement of front yard by the service station canopy, signs and height of the principle pole sign and some minor infringement from light spill). These were not seen as determinative issues, but would be taken into account in the broad sense of the non-complying status of the activity in the Rural zone and conditions of consent if consent is to be granted.

[55] A number of regional consents are to be sought, should the appeal be successful, covering details of the proposal such as dewatering, stormwater discharge and water take. The necessary wastewater consents have been granted. None of these matters were in dispute.

[56] In addition to the RMA documents referred to above, Mr De Luca referred to the SmartGrowth Strategy. This document has been adopted by the Western Bay of Plenty sub-region consisting of Bay of Plenty Regional Council, Tauranga City Council and Western Bay of Plenty District Council. It has been reflected in the relevant Regional and District Plans. Mr De Luca explained that the relevant aims are to protect productive land, including the impacts of activities on its use for rural production purposes, and concentrating development in key growth areas and corridors to achieve infrastructure efficiencies.

[57] Mr De Luca specifically took us to the identified regional issues of cumulative effects of activity which might result in inefficient use of land through sprawling or sporadic new subdivisions use and development, the loss of versatile land for production, and adverse effects on the function, efficiency and safety of infrastructure. We were referred to the more relevant passages of the Bay of





Plenty Regional Policy Statement (**RPS**) in Section 2.5 Objective 11 and Section 2.8 Objectives 23, 25, and 26 and relevant policies. These provisions discuss such things as:

- (a) ad-hoc, private, market-driven development and resultant adverse social and economic effects;
- (b) containment and provision for business activities within urban limits; and
- (c) provision for the growth and efficient operation of rural activities protecting rural land from non-production uses and reverse sensitivity issues.

[58] The RPS identifies the District Plan provisions as the tool for addressing these issues. There was no suggestion that the relevant provisions of the District Plan were not in accordance with the RPS.

[59] We have not been convinced that the presence of the proposed service station indicates ad-hoc business activity that would drive urban growth away from the prescribed areas. The character of this activity, while stand alone, does not in our view raise high level urban growth issues that need to be reconciled. The proposal clearly has some relevance to the newly formed TEL, but not in a negative way. In respect of the impact on the efficiencies of the roading infrastructure, we note that there is no concern expressed by NZTA in respect of this appeal. The location of the site at a low speed junction of the state highway infrastructure is logical as an efficient placement for the servicing of vehicles using the roads. This is evidenced by the location of the Weigh Station. Thus, at a high level we conclude that there would be no conflict between this proposal and the RPS. It is the District Plan which is most relevant to these proceedings.

### ***The District Plan***

[60] As we have indicated, the Service Station is a non-complying activity in the Rural zone. This comes about because the Rural zone does not specifically provide for this activity, and Rule 4A.1.4 indicates that if the activity is not listed in the zone then it defaults to non-complying.



[61] The District Plan mimics the RPS in setting out the issues for the Rural areas of the District and the importance of rural primary production to the economic welfare of the district and the importance of sustaining this production. It also refers to reverse sensitivity with operational requirements of rural production including spray drift, noise, shade from shelter belts and the like. The District Plan explains at Part 6.26 (18.1 Significant Issues) that these things are accepted and integral features of primary production and these practices should not be unreasonably constrained by other activities. Clause 18.2.1 Objectives, deals with these issues and also seeks to maintain the rural character and amenity values *associated with the low density rural environment*.

*Functional and legitimate need*

[62] The District Plan 18.2.2 Policies includes the requirement that fragmentation of versatile land for purposes not directly related to maintaining or enhancing the primary productive potential of the rural land resource should be *avoided or minimised*. More specifically, the following policies attracted significant examination by the parties:

10. Activities with a **functional or other legitimate need** for a rural location should not be established in rural areas unless they are able to be undertaken without **constraining the lawful operation of productive rural land uses which are carried out in accordance with accepted management practices**.

11. The establishment in rural areas of industrial, commercial or other activities which do not have a functional or other legitimate need for a rural location should be avoided.

[63] We accept that the reverse sensitivity from spray drift might be a perceived risk rather than a real one. We conclude that the actual risk would be minimal, if chemicals were applied in accordance with industry guidelines. We cannot account for perception only as a real adverse environmental effect. We conclude that the activity would not constrain lawful operation of productive land users.

[64] Thus we conclude that the contentious part of Policy 10 above is whether there is a *functional or other legitimate need for a rural location*. While there is no functional need for the service station to locate in a rural zone, there might be a legitimate need. There is no appropriately zoned land (i.e. industrial zoned land



where a service station is a permitted use) other than the industrial zone (such as Rangiuru Business Park), which it is agreed by all parties is unsuitable for the service station. Mr De Luca suggested another site within the commercial industrial zone at Paengaroa, but this does not have the benefit of the connection to the multi directional/connecting roading infrastructure of the proposed site, and would require consent as a Discretionary Activity.

[65] In answer to questions from the Court, Mr De Luca confirmed that other than on Industrial zoned land, service stations require a resource consent as a fully discretionary activity in the Commercial zone and otherwise are non-complying. So once the threshold for a non-complying activity status is defeated, the tests for appropriateness are the same be it rural, commercial, or residential.

[66] Mr De Luca explained that in his opinion the *concept of functional or other legitimate need underpins both the rural and urban components of the growth management strategy*. In his opinion, it assists in the preservation and efficient use of the rural productive land and *assists in channelling activities of an urban nature into existing developed or Greenfield areas zoned for urban development* and thereby achieving the efficiencies sought by the Plan. He opined that the key to the terminology used in Policy 10 is the word *need*. He considered that this meant the activity should be dependent on a rural local location and listed those features that he saw as indicating dependency.

[67] However, we prefer Ms Blair's evidence, the Planner for the Appellant, who examined the locational need of service stations and referred to the relationship between site and the road environment as being critically important. In addition she noted that they have a predominantly vehicle orientated function and provide a commuter service, relying on passing traffic; and they neither rely nor generate demand for an agglomeration of surrounding activities. We see the logic in these statements, which were supported by evidence of Mr Dryburgh, Asset Manager for Z Energy.

[68] We accept that there is always the potential for other activities to seek to leverage off an established activity. However, that will require a resource consent. Indeed that situation exists now with the Fruitlands activity. In that regard, we note



that the Rural zone provides for *Travellers Accommodation and Places of Assembly such as Restaurants* as fully Discretionary Activities. If these activities were proposed nearby they would be subject to thorough assessment as to their suitability. Such applications could and may arise independent of this service station being established.

[69] We accept that a service station does have a legitimate need to locate *near major arterial roads*. This might be out of zone under the regime adopted by this District Plan. This activity is stand alone and has specific locational requirements which broadly distinguish it from other commercial and industrial zoned activities. Further, a service station is directly related to a key feature of this particular part of the Rural zone, being a major state highway intersection. The service station has a functional relationship to the state highway and the site is rather uniquely located in a low speed and identified vehicle service area with the existence of the Weigh Station. No adverse traffic effects have been identified. We conclude that this proposal does not offend policies 10 and 11.

*Fragmentation and maintaining rural character*

[70] We now turn to the other features of the District Plan objectives and policies in contention concerning the avoidance of the fragmentation of versatile land, and maintaining rural character and amenity values. The witnesses were in agreement that the site was not to be subdivided, and the loss of production from the existing avocado orchard (one full row and a number of partial rows of avocado trees) would be minimal and essentially leave the orchard intact. Thus the proposal was not seen to offend these fragmentation objectives and policies.

[71] However, the issue of adverse effect on rural character remained live. In this regard the elements that define rural character are set out at Clause 18.1.3 of the District Plan. We have set out the context of the development site and, as with most sites, the rural context displays some but not all of these qualities; but more importantly the actual development site displays little of these qualities, and all witness agreed that the potential adverse effects on character and amenity values created by the Z Energy proposal would be no more than minor and accepted the proposed conditions of consent as acceptable mitigation. We have considered these effects and come to the same conclusion.



[72] The District Plan provisions are largely focussed on concerns about residential construction within the rural area. We acknowledge that the planning provisions do not themselves seek to encourage proliferation of commercial activities within the rural zone. We acknowledge that the examples of service stations within the rural zone in Western Bay of Plenty are traditional, predating the provisions of this Operative Plan.

[73] Nevertheless, we also acknowledge that the District Council did grant a non-complying consent to significantly extend the Pongakawa BP Station. The distinction between that decision and this decision appears to derive from the fact that the activity of fuel resale had been established on the site for a considerable period, in conjunction with a mechanical service and travel shop and rest stop.

[74] Mr De Luca acknowledged, in terms of the relevant planning documents, that there had been a significant expansion on the Pongakawa site and the introduction of a new activity, namely drive-thru takeaway foods. Nevertheless, he saw the major distinction at this site as being that the Fruitlands Site had never sold fuel products, where Pongakawa had always sold food products.

[75] There is an important distinction between a proposal being inconsistent with objectives and policies (or certain of them) and being contrary to the objectives and policies as a whole. Here, the key focus of the Objectives and Policies is on subdivision and residential development. The Plan contemplates that the rural area is also subject to other pressures for development. These are to be assessed on a case-by-case basis.

[76] We conclude that the proposal cannot be said to be contrary to the objectives and policies set out in the District Plan. We acknowledge that we have not cited all of those relied upon by the parties, but have confined ourselves to those key to our consideration. This does not mean we have not considered them. We accept that this site is rather unique and well located for this particular activity.



[77] Overall, we are satisfied that the application is inconsistent with some provisions and is not supported by the plans as a whole. Nevertheless, the Plans allow consents can be granted in appropriate circumstances. The issue will then turn on an individual factual position as to whether the application can be supported.

#### **Other matters under s 104(1)(c)**

[78] We acknowledge that the legitimacy of the Fruitlands activity is not a matter of consensus between the parties. It has clearly operated with the Council's knowledge for a considerable period (in the order of 30 years) and the applicant has, from time to time, asserted existing use rights. The Council suggested that it held an internal memorandum that indicated the Council did not accept that existing use rights were established, but no action has been taken. Rather than become involved in whether this is an existing use right situation, we acknowledge that it has been used for commercial use for a number of decades without dispute. As a matter of fact it has done so openly and without challenge.

[79] It is distinguishable from the sites around it, where no such activities were asserted. It is one of a relatively small number of properties throughout the Western Bay of Plenty rural area adjacent to an arterial road to have conducted commercial activities in the rural zone. We consider that under s 104(1)(c) this is a special factor we can take into account in relation to this site, and is relevant to the determination of its appropriate status as to whether a consent can be granted.

[80] It is clear that district plans are rarely going to provide direct support for an application for non-complying activity consent, and one would expect a differing status if they did. Having regard to the minimal effects and the relative provisions of the plan we must reach an integrated decision as to whether a consent can appropriately be granted for this site.

#### **Evaluation under Part 2**

[81] It is clear that the relevant plans constitute a local interpretation of the obligations under the Act and in terms of part 2. Nevertheless the section itself is



enabling, and enables people and communities to provide (inter alia) for their social, economic, and cultural wellbeing.

[82] In this case it is correct that Z Energy is being enabled by construction of the premises. However, we acknowledge that it also enables people in the communities to provide for safe travel between Tauranga, Whakatane and Rotorua and the provision of another choice for that roading element, namely fuels, rest stops and convenience facilities. Mr De Luca's position was that this was already adequately provided for both at Pongakawa and Paengaroa, both of which were relatively proximate. In respect of people driving from Tauranga we conclude that this would be the first service station visible at the end of the TEL. Previously, the road led through Te Puke, which provided several choices for petrol stations, rest stops, convenient foods and the like. The direct road now precludes that.

[83] For travel from Tauranga, it appeared to the Court that there were no service stations on the left lanes of the motorway on SH2 between Bethlehem and the end of the TEL. Thus cars would need to travel towards Whakatane or Rotorua before they would see a petrol station. We acknowledge that the trip to Paengaroa is relatively short and that people would, within a relatively short amount of time, discover there was another station available to service their needs. In relation to Pongakawa there is a somewhat greater difference, and the service station in both cases is on the opposite side of the road.

[84] Overall, we are not satisfied that there is any compelling reason on this basis that a service station must be supplied. Nevertheless it would enable people and communities to better provide for their transport requirements. This in itself, however, would not override the concerns about modification of the rural environment.

[85] What leads us to exercise our discretion in favour of this application is the site has previously been used for commercial use for many years and is unusually placed as a site having direct access to the state highway, immediately approximate to a major interchange, with clear views into the site from all parts of that interchange.



[86] This is not a feature shared with neighbouring properties. In any event, any further applications would lead to concerns about cumulative effects when combined with the effects of the existing activities. However, we have concluded that the effect of this activity would not be such as to change the rural character. It would provide an appropriate and expected insert into the rural environment. Although it has urbanising elements it would nevertheless be read overall as a rural service station servicing passing traffic.

[87] To that end it appears to us that further conditions would need to be inserted to prevent any potential upscaling of this site to provide a wide range of services including takeaway restaurants, cafes and the like. We also consider that further steps should be taken with the landscaping on the north and south sides of the property to provide intermediate planting to merge with not only the netting fence but the larger vegetation on the neighbouring properties which might be removed in the future. The objective would be to allow the growth of some trees in the order of three to four metres on both sides which would further compartmentalise the site from the balance of the rural area around it.

[88] In a similar vein, some tree planting should be introduced in the foreground along the rear fence/man-made shelter belt to strengthen the substance of this separation and provide some visual relief to the scale of this structure. We understood from questions of witnesses that this was achievable, and would be supported by the wastewater application area in front of this fence.

[89] Overall we are satisfied that with the additional conditions that we have suggested that this application could be appropriately sited within the rural zone.

#### **Precedent effect**

[90] There is a concern that the granting of this consent would create a precedent effect and affect the integrity of the plan. We have gone to some degree to articulate those factors we see as distinguishing this application from the generality of applications before it, and constituting an exception. These include:





- (d) the site, which has already been utilised for commercial activity for a considerable period;
- (e) it is uniquely located adjacent to the interchange;
- (f) it is able to be separated from the balance of the rural area immediately around it to such a degree that it creates no amenity intrusion within the balance of that environment;
- (g) its relationship is entirely with TEL and the interchange in front of it, and can be isolated in that way;
- (h) conditions can limit effects so they are minimal.

[91] Overall, we conclude that this would constitute a true and defensible exception to the Rural zoning rules.

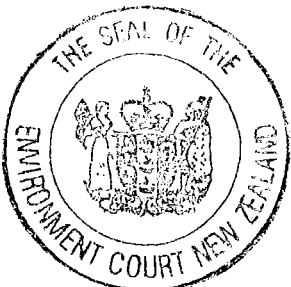
### **Outcome**

[92] We have already discussed the decision of the Council and our reasoning is based on the fact that the application passes at least one threshold of the application. Viewed overall we take the view that the application is likely to meet the second threshold of s 104D, given its evaluation against the objectives and policies of the plan as a whole. Overall, however, we acknowledge that there is some inconsistency between the plan provisions and this application. For this reason there must be some clear grounds to distinguish this from a generality of cases. We are satisfied that there is likely to be little impact upon the integrity of the plan as a result.

[93] We conclude that the consent can be granted subject to amended conditions. Amendments need to be made to the conditions to address:

- (a) prevention of upscaling the site contents; and
- (b) further landscaping

identified in paragraphs [87] and [88].

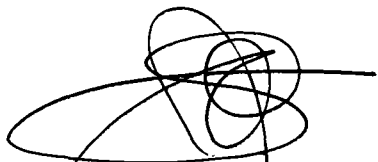


- A. The amended conditions are to be provided within 20 working days.
- B. The parties then have 10 days within which to comment upon those provisions.
- C. If the parties are able to reach agreement, they are to advise the Court within a further 5 working days.
- D. If the parties are unable to agree the applicant is to file their preferred provisions setting out the reasons of difference and their preferred outcome.
- E. The other parties then have 10 working days to provide their comments thereon and the Court will then proceed to make a final decision.
- F. Costs are reserved pending final decision in this matter.

[94] This matter was finely balanced. All witnesses prepared concise and well reasoned evidence. The differences were clearly articulated and defensible. We are tentatively of the view that this is not an appropriate case for any costs applications.

SIGNED at AUCKLAND this 17<sup>th</sup> day of August 2016

*For the Court*

  
\_\_\_\_\_  
JA Smith  
Environment Judge



## ATTACHMENT A: Agreed Conditions

On 8<sup>th</sup> July 2016 the witnesses stated above agreed the following conditions:

### General

1. Except where modified by other conditions of this consent, the activity shall be undertaken in accordance with the information submitted with the application and subsequent amendments, in particular:
  - (a) The Burton Consultants letter dated 22nd May 2015, signed by Gael McKitterick, and Attachments 1-7.
  - (b) The SHA Architecture Ltd plans reference 13042, Revision J, A-A02 - A-A09, dated 10/06/2016;
  - (c) The SHA Architecture Ltd plans reference 13042, RC02 and RC03 (Revision D), RC04 (Revision A), RC05 (Revision A) and RC06 (Revision A), dated July 2014;
  - (d) The Philips Lighting NZ Ltd design and plans, Annexure O to application AEE.
  - (e) Appendix A Lighting Calculations to the Aurecon "Lighting Assessment" report dated 12 May 2015 prepared by Clark Houltram.

**Comment [A1]:** These refer to the earthworks (earthworks, sediment and erosion and drainage) plans and the landscape plan. In the event that consent is granted these plans will need to be updated and the correct reference included. They have not yet been updated to reflect the deletion of the truck stop.

### Noise

2. All activities within the service station site ("the site") shall be conducted so as to ensure that the noise (rating) level from the site does not exceed the following noise limits within the stated timeframes at any point within the notional boundary of any dwelling not located on the site:

Time period		Noise Limit	
Day	Hours	Leq	Lmax
Monday to Saturday	7am to 10pm	50dBA	N/A
Sunday	7am to 6pm	50dBA	N/A
At all other times and on public holidays		40dBA	75dBA for assessment locations within 71m of the edge of the nearest traffic lane of State Highway 2 and 65dBA for all other assessment locations

The noise shall be measured in accordance with the requirements of NZS 6801:2008 Acoustics – Measurement of Environmental Sound and assessed in accordance with the requirements of NZS 6802:2008 Acoustics – Environmental Noise.



3. Prior to the service station activity commencing operation, a 2m high acoustic fence shall be erected along the side and rear boundaries of the site as shown on the site plan prepared by SHA Architecture Ltd plan reference 13042, Revision J, A-A02, dated 10/06/2016. The fence shall be constructed of a material with a surface mass of no less than 10kg/m<sup>2</sup> and shall have no gaps along its length and a gap no greater than 10mm at its base. The fence shall be maintained to be an effective acoustic screen for the duration that this consent is given effect to.
4. If reasonably requested by the Council, the consent holder shall, at any time, engage a suitably qualified and experienced acoustics expert to undertake noise measurements to demonstrate compliance (or otherwise) with the noise limits set out in condition 2. The measurements shall be undertaken from within the most exposed notional boundary of a dwelling not on the site or at a representative position if access to neighbouring properties is not available. The methodology of and results of the measurements shall be detailed in a report to be submitted to the Council within two weeks of the measurements being completed. The measurements and report shall include details of the noise of the external mechanical plant associated with the shop as well as noise generated by other sources on the site.
5. In the event of the construction of a new dwelling which has a notional boundary within 30m of the boundary of the site, the consent holder shall submit to the satisfaction of the Council an acoustic assessment report prepared by a suitably qualified and experienced expert to demonstrate by way of noise measurements and / or noise level predictions what additional mitigation measures, (if any) are required to ensure ongoing compliance with the noise levels set out in condition 2. The acoustic assessment shall be prepared in accordance with the methodology set out in condition 4. Any required additional noise mitigation measures identified in the acoustic assessment report shall be implemented prior to the new dwelling being occupied or within an extended timeframe as reasonably agreed by the Council.

#### **Lighting**

6. All exterior lighting is designed and located in such a way as to reduce to the maximum extent practicable any direct glare or light spill outside of the consented site. Prior to the operation of the consented activity, written certification shall be submitted to Council confirming that this performance standard has been met. Written certification shall be provided by a person whom the Council considers to be a suitably qualified and experienced independent professional.

#### **Horticultural spray drift mitigation**

7. Prior to the service station activity commencing operation, a 7.2m high artificial shelter fence shall be erected in the locations identified on the site plan prepared by SHA Architecture Ltd, plan reference 13042, Revision J, A-A02, dated 10/06/2016. The shelter material used shall be green or black cloth with a maximum porosity of 20%.

#### **Signage**

8. Signage on the subject site shall be limited to that shown on the SHA Architecture Ltd plan reference 13042, A-A08, Revision J dated 10/06/2016.

#### **Landscaping**

9. The consent holder shall develop and submit to Council for approval, a site landscaping plan, in general accordance with the Landscape Plan prepared by



Isthmus dated June 2016 ref 3611 and the Proposed Site Setout Plan by SHA Architecture Ltd dated 10/06/2016. The plan shall include (but not be limited to):

- (a) A new 7.2m high shelter fence in the location identified on the proposed site setout plan;
  - (b) A schedule of species to be planted including botanical name, common name, scheduled size (average plant height or PB size at time of planting) average mature height and mature spread, plant spacing and quantity of each;
  - (c) An implementation schedule, requiring landscaping to be established no later than in the first planting season following completion of on-site construction works; and
  - (d) A management and maintenance plan.
10. The consent holder shall implement and maintain the approved site landscaping in accordance with the approved implementation schedule and maintenance plan for the duration of the consented activity.
11. If (and to the extent that) the existing shelterbelts on the neighbouring western and eastern properties are removed, or are not maintained to a minimum of 7.2m, new shelter belt planting must be planted within the subject site. The new shelterbelt planting must capable of growing to a minimum height of 7.2m within 10 years of planting, and maintained to at least that height along the length of the new 7.2m high shelter fence except as required to ensure that the remote fill and vent areas are adequately ventilated and safe.

#### **Contaminated land soil sampling**

12. Prior to any soil disturbance site works commencing sufficient soil sampling shall be carried out by a suitably experienced contaminated land practitioner for testing by an accredited laboratory for orchard chemicals (subject to acceptance from a landfill operator) to characterise the soil for disposal purposes.
13. Soil sampling results shall be provided to the District Council within three months of the soil sampling taking place, with a copy also provided to the Bay of Plenty Regional Council.
14. Following satisfaction of condition 12, an appropriate site management and contaminated soil disposal plan shall be prepared and adhered to in accordance with the National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health (NES).

#### **Environmental Management Plan**

15. To the extent applicable, the Z Energy Environmental Management Plan (EMP) shall be complied with during all construction works. A suitable addendum to the EMP relating to NES requirements shall be prepared and also adhered to during all construction works. A copy of the addendum shall be submitted to Council for approval prior to construction works commencing.

#### **Hazardous substances**

16. Prior to the commissioning of the service station facility, copies of all Stationary Container System Text Certificates and the Location Certificate required under the Hazardous Substances and New Organisms Act (HSNO) shall be provided to the



District Council. Thereafter, all required HSNO certifications shall be maintained current.

#### **Balance of the subject site**

17. The balance of the subject property that is not to be used for the service station activity (currently used for avocado orchard – see SHA Architecture Ltd plan reference 13042, A-A01A, Revision J dated 10/06/2016) shall not be used for residential purposes, and other activities undertaken shall be limited to those which are, at the time of establishment, permitted under any operative Western Bay of Plenty District Plan.

#### **Bay of Plenty Regional Council (BOPRC) resource consents**

18. Prior to any site works commencing, copies of all required BOPRC consents shall be provided to the District Council.

#### **Consent conditions review**

19. Pursuant to sections 128 and 129 of the Resource Management Act 1991, the Council may serve notice on the consent holder of its intention to review the conditions of this consent. Notice must be served within 10 working days of the anniversary date of this decision, in any given year. The review of consent conditions shall be for the purposes of addressing any adverse effects on the State highway network as a result of the designated vehicle entrance being used as an exit and any internal site layout remediation necessary to prevent this from occurring.

#### **ADVICE NOTES**

1. The consent holder should notify Council, in writing, of their intention to begin works prior to commencement. Such notification should be sent to the Council's Compliance Monitoring Team (fax: 07 577 9820) and include the following details:
  - name and telephone number of the project manager and site owner;
  - site address to which the consent relates;
  - activity to which the consent relates; and
  - expected duration of works.

Notifying Council of the intended start date enables cost effective monitoring to take place. The consent holder is advised that additional visits and administration required by Council officers to determine compliance with consent conditions will be charged to the consent holder on an actual and reasonable basis.

2. Work within the State highway boundaries will require the prior approval of NZTA, pursuant to section 51 of the Government Roadings Powers Act 1989. Construction details of the proposed works will need to be submitted by the consent holder's contractor to NZTA. All work on the State highway is to be completed to the satisfaction of the State Highway Manager, NZTA, Tauranga, or their delegate.
3. Full compliance with the conditions of consent is necessary to carry out the activity to which this consent relates. Progress towards satisfying the conditions of consent will be monitored by a Council representative and failure to meet these conditions may result in enforcement action being taken in accordance with Council's



Monitoring Compliance and Enforcement Strategy. This may involve the issuing of an Infringement Notice (instant fine) and/or a monitoring fee.




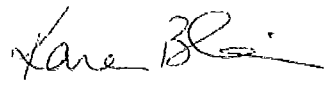


## JOINT WITNESS STATEMENT

Case: ENV-2015-AKL-000122

Topic: Noise Conditions

Witnesses Present:

Witness	For	Signature
Jon Styles	Acoustic Expert for the Western Bay of Plenty District Council	
Russell De Luca	Planning Expert for the Western Bay of Plenty District Council	
Nevil Hegley	Acoustic Expert for Z Energy Limited	
Karen Blair	Planning Expert for Z Energy Limited	

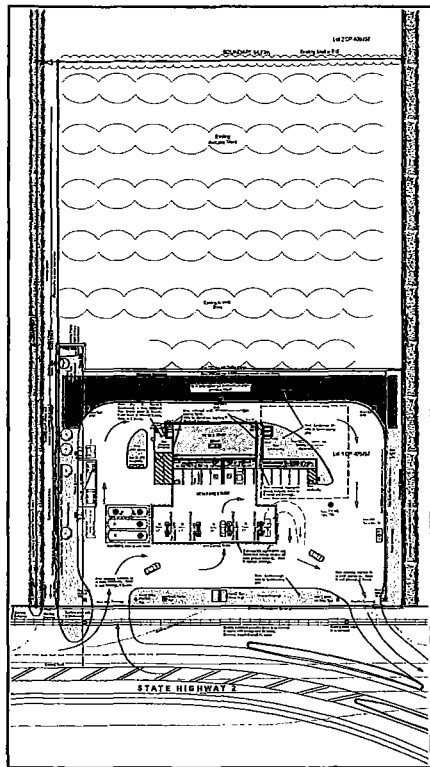
### Environment Court Practice Note:

It is confirmed that all present:

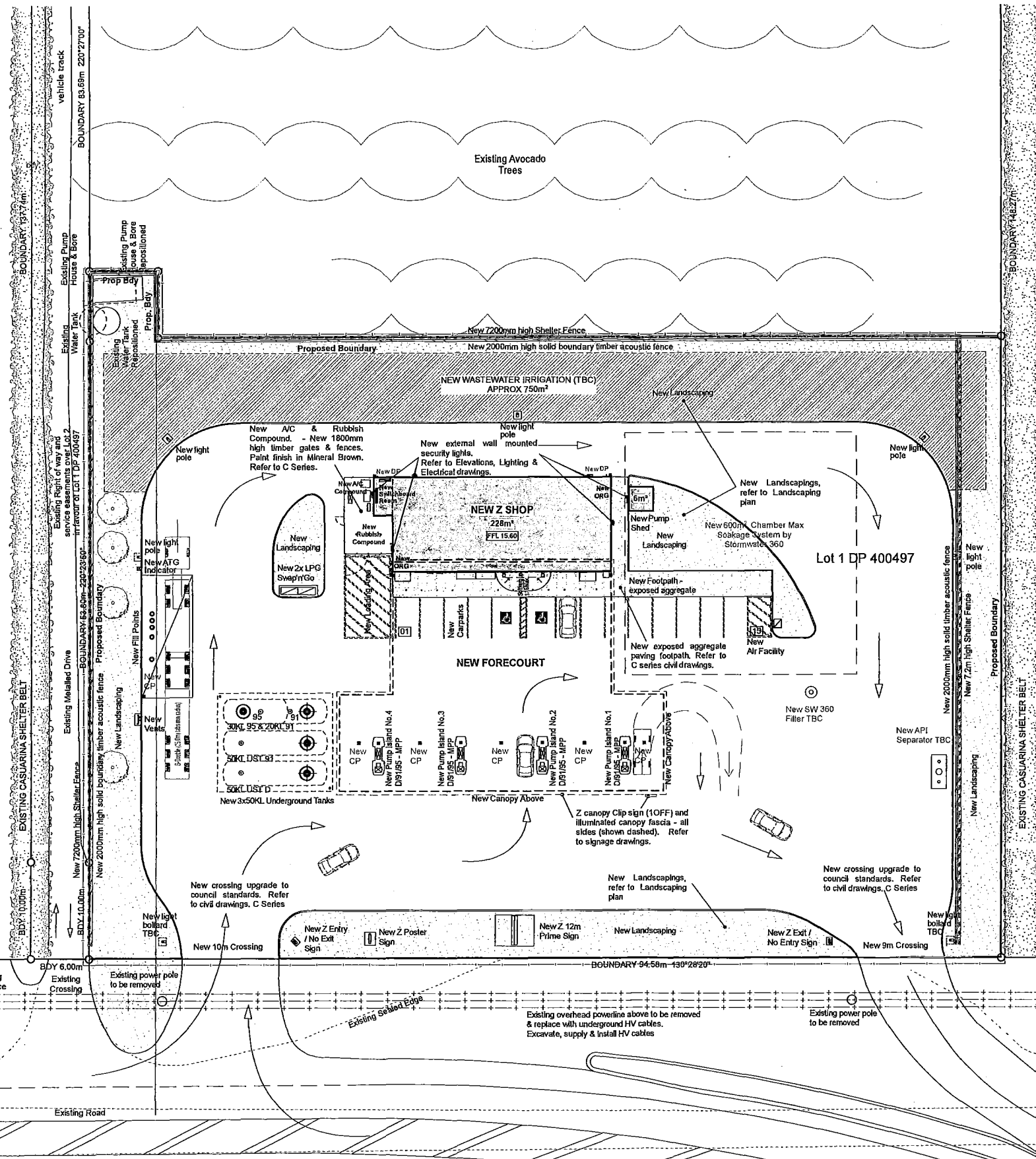
- Have read the Environment Court Consolidated Practice Note 2014 Code of Conduct and agree to abide by it.
- Agree the acoustic conditions for the Z Energy service centre proposal at 780 Statement Highway 2, Paengaroa as contained in **Attachment A** to this JWS.







**PROPOSED SITE AREA PLAN**  
SCALE 1:1000



**PROPOSED SITE PLAN**  
SCALE 1:250

- KEY:**
- New landscaping: Refer to landscaping plan
  - New 100mm wide concrete kerbs: Allow to bag & sand all kerbs to achieve smooth finish. Refer to Civil Engineering drawings, C Series for further detail.
  - New 7200mm high Shelter Fence: Timber posts extended to ground with concrete foundation, will have overlapping joints to cloth, TBC
  - New 2000mm high boundary solid timber acoustic fence.
  - To be effective, barriers must be a minimum of 2000mm high and constructed from a material with surface mass of not less than 10kg/m<sup>2</sup>. Suitable materials include 20mm pine palings, 20mm plywood, 7mm fibre cement sheet or 6mm glass. Regardless of the material used, it must be free from gaps, including where the barrier meets an existing building and as its base. If timber palings are used, the boards must be butted together with battens placed over the joints to control noise passing through any gaps that open up as the timber dries and shrinks.
  - New canopy signage: Refer to Sheet B01 and Canopy Roof plan for further detail.
  - New temporary hoardings: Provide 1800mm high proprietary galvanneal wire and steel post security hoarding to prevent access from public during construction.

**NOTES:**

- Refer to sheet B Series for signage elevations and foundation details.
- Refer to sheet C Series for pump island, rubbish compound, air conditioning unit, fence, VR hose, ATG Indicator, manway toolbox, light pole, Carwash & site sign details.
- Refer to MSC Civil drawings, C series.
- Refer to MSC Structural drawings, S series.

- Allow to reinstatement/repair any damage to neighbouring properties, footpaths and crossings during construction.
- All dimensions to be confirmed on site prior to construction.
- Install temporary Geotextile over any ACO drains, drains (on crossings) & catch pits on site.
- Any excavation materials will be removed off site by truck.

Zoning: Rural

Site Coverage: None

Boundary Setback: 30 m front yard for dwellings only. Any other activity has to go through RC-Non Compliant Activity Non habitable buildings 5 m from boundary

Max height 9 m

Full Site Area: 13,985m<sup>2</sup>  
Total Proposed Site Area = 6,100m<sup>2</sup> (43% of Full Site)

- Permeable Area: 1,990m<sup>2</sup> (32.6%)  
- Impermeable Area: 4,110m<sup>2</sup> (67.4%)

- Proposed Building Coverage A: In terms of 6,100m<sup>2</sup>  
(New Z Shop Building & Canopy) = 850m<sup>2</sup> (13.9%)

- Proposed Building Coverage B: In terms of 13,985m<sup>2</sup>  
(New Z Shop Building & Canopy) = 850m<sup>2</sup> (6.1%)

**Car parks required**  
1 space per 30m<sup>2</sup> = 7 car parks (Z Shop Building 220m<sup>2</sup>)  
2 accessible car parks are required within this number.

**Car parks provided**  
- 15 car parks (incl. 2 accessible car parks)  
- 1 air parking space  
- 1 marked loading space  
- 1 unmarked loading space for fuel deliveries

**DISCLAIMER:**  
PLANNING ADVICE TO BE SOUGHT PRIOR TO PROCEEDING FURTHER

**DISCLAIMER:**  
EXISTING SITE PLAN TAKEN FROM AERIAL PHOTOS & ASSUMED. EXACT LOCATION TO BE CONFIRMED BY SITE SURVEY PLAN.

**REFERENCE DRAWINGS**

DWG NO.	DRAWING TITLE

**GENERAL NOTES**

- Figured dimensions to take precedence over scaled dimensions. Contractor to verify all dimensions on site prior to construction.
- Do not reproduce any standard drawing before checking latest drawing revision with Z Energy H.O. engineering division.
- Contractor to adhere to all latest Building Codes and regulations including NZS 3604, NZBC and any other codes relevant to these documents and local authority regulations and bylaws.
- All OSH regulations to be adhered to for the duration of contract.
- This drawing to be read in conjunction with the other drawings in the standard contract documents drawing set and with site specific drawings for any specific project.

**DISCLAIMER:**  
These drawings and specifications must be read in conjunction with NZBC and all other relevant standards and codes.

SHA Architecture Limited takes no liability for any alterations, substitutions, omissions to these documents and codes which result in building failure and or weather tightness failure.

Legal Description  
LOT 1  
DP 400497

J: 10.06.18 - Issued for Revised Resource Consent  
I: 26.05.18 - Issued for Revised Resource Consent  
H: 26.11.15 - Issued for Revised Resource Consent  
G: 10.08.15 - Issued for Resource Consent  
F: 15.05.15 - Issued for Revised Resource Consent  
E: 08.05.15 - Issued for Revised Resource Consent  
D: 13.04.15 - Issued for Revised Resource Consent  
C: 10.02.15 - Issued for Revised Resource Consent  
B: 30.06.14 - Issued for Resource Consent  
A: 12.06.14 - Draft Issued for Comments

Revisions

**SHA**  
Architecture  
LIMITED

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PROJECT MANAGERS & CONSULTANTS  
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WELLINGTON, NEW ZEALAND  
TELEPHONE: 0800 474 355

drawn: J.L.A.A. date: 13/06/2016  
checked: D. SNELL scale: 1:250, 1:1000 @ A1  
scale: 1:500, 1:2000 @ A3

project: RESOURCE CONSENT

**Z Paengaroa NTL**  
780 State Highway 2  
Paengaroa

drawing:

**PROPOSED SITE PLAN & SITE AREA PLAN**

Z energy ref: sheet revision  
SHA ref: 13042 A-A02 J

