

**In the Environment Court of New Zealand  
Auckland Registry**

**I Te Kooti Taiao o Aotearoa  
Tamaki Makaurau Rohe**

ENV 2024

Under the Resource Management Act 1991 (RMA)

In the matter of an appeal under s174 RMA

**Between Wiri Oil Services Limited**

**Appellant**

**And Auckland Transport**

**Respondent**

---

**Notice of Appeal by Wiri Oil Services Limited in relation to  
Notice of Requirement (NOR4A) Airport to Botany Bus Rapid  
Transit from SH20/20B Interchange to Orrs Road**

**Dated this 02<sup>nd</sup> April 2024**

---

K3 Legal Limited  
Solicitor Acting:  
Chris Lee  
chris@k3.co.nz

Counsel Acting  
Rob Enright  
Wānaka & Auckland  
rob@publiclaw9.com  
021 276 5787

To: The Registrar  
Environment Court  
Auckland

- 1 Wiri Oil Services Limited (**WOSL**) appeals against part of the decision of Auckland Transport in relation to the Notice of Requirement (NOR4A) Airport to Botany Bus Rapid Transit from SH20/20B Interchange to Orrs Road. This involves the construction, operation and maintenance of an upgrade to Puhinui Road between Plunket Avenue and the SH20/20B Interchange for a BRT corridor, walking and cycling facilities and associated infrastructure (**Decision or NOR4A**, as the context requires).
- 2 As stated below, the Appeal is limited to condition 28 (Network Utility Management Plan, NUMP), and any associated or consequential relief.
- 3 WOSL made a submission on NOR4A.
- 4 WOSL is not a trade competitor for the purposes of s308D RMA.
- 5 WOSL received notice of Auckland Transport's Decision on NOR4A on or about 08 March 2024.
- 6 The decision was made by Auckland Transport, as a requiring authority under s172 RMA, in response to recommendations by independent Commissioners appointed by Auckland Council pursuant to s171 RMA.
- 7 The part of the decision that WOSL appeals against is as follows:

**Condition 28** (Network Utility Management Plan, NUMP), of Designation XXXX – Airport to Botany Bus Rapid Transit from SH20/20B Interchange to Orrs Road (Notice of Requirement (NOR4A)).

Condition 28 states as follows:

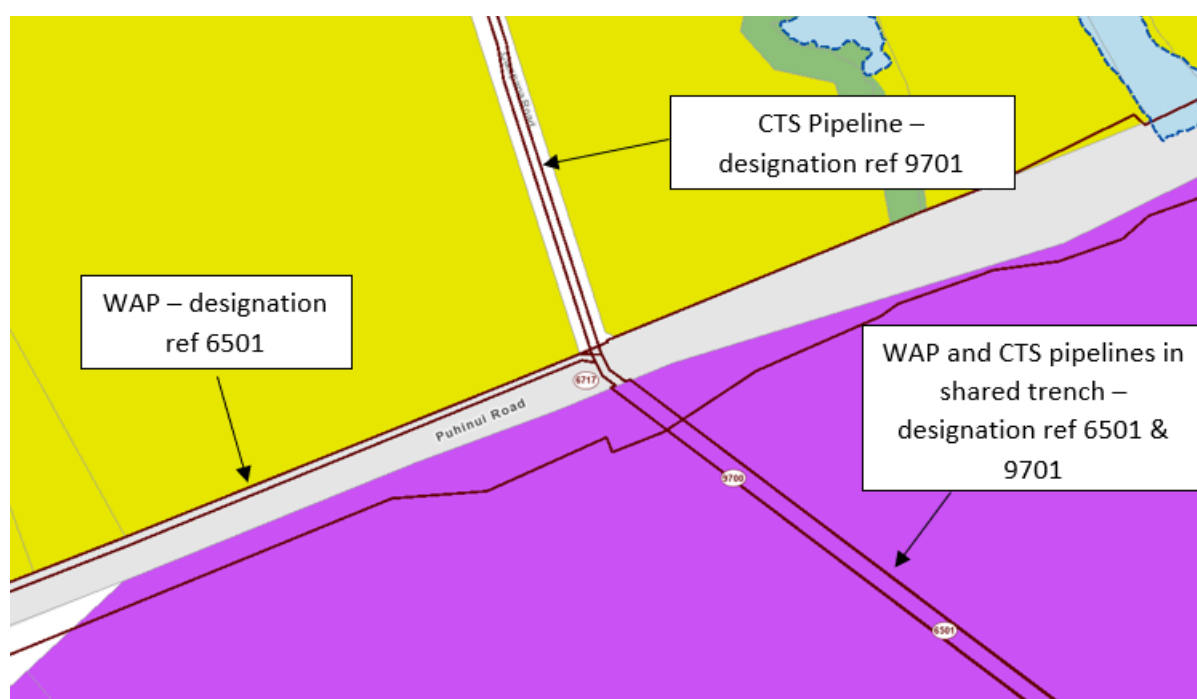
## **28. Network Utility Management Plan (NUMP)**

- (a) A NUMP shall be prepared prior to the Start of Construction for a Stage of Work.
- (b) The objective of the NUMP is to set out a framework for protecting, relocating and working in proximity to existing network utilities. To achieve the objective, the NUMP shall include methods to:
  - (i) provide access for maintenance at all reasonable times, or emergency works at all times during construction activities;
  - (ii) manage the effects of dust and any other material potentially resulting from construction activities and able to cause material damage, beyond normal wear and tear to overhead transmission lines in the Project area;
  - (iii) demonstrate compliance with relevant standards and Codes of Practice including, where relevant, the NZECP 34:2001 New Zealand Electrical Code of Practice for Electrical Safe Distances 2001; AS/NZS 4853:2012 Electrical hazards on Metallic Pipelines; and AS/NZS 2885 Pipelines – Gas and Liquid Petroleum.
- (c) The NUMP shall be prepared in consultation with the relevant Network Utility Operator(s) (including Auckland International Airport Limited) who have existing assets that are directly affected by the Project.
- (d) The development of the NUMP shall consider opportunities to coordinate future work programmes with other Network Utility Operator(s) (including Auckland International Airport Limited) during detailed design where practicable.
- (e) The NUMP shall describe how any comments from the Network Utility Operator (including Auckland International Airport Limited) in relation to its assets have been addressed.
- (f) Any comments received from the Network Utility Operator (including Auckland International Airport Limited) shall be considered when finalising the NUMP.
- (g) Any amendments to the NUMP related to the assets of a Network Utility Operator (including Auckland International Airport Limited) shall be prepared in consultation with that asset owner.

8 For clarity, this appeal is limited to condition 28, and any associated or consequential relief. No other part of the Decision is appealed.

## Reasons for the appeal

- 9 WOSL is a Requiring Authority and approved Network Utility Operator under s168 RMA. It has statutory responsibility for designation 6501 (Wiri to Airport pipeline); and is wholly reliant on the safe and efficient operation of the Channel Infrastructure NZ Ltd (**Channel**) Pipeline (Ruakaka to Auckland Pipeline (**RAP**), designation 9701). Both these pipelines are within the footprint of NOR4A, as shown in Figures 1 and 2 below.



**Figure 1:** WAP and RAP routes at intersection with Puhinui Road  
Base map source: Auckland Unitary Plan

[Figure 2 overleaf]

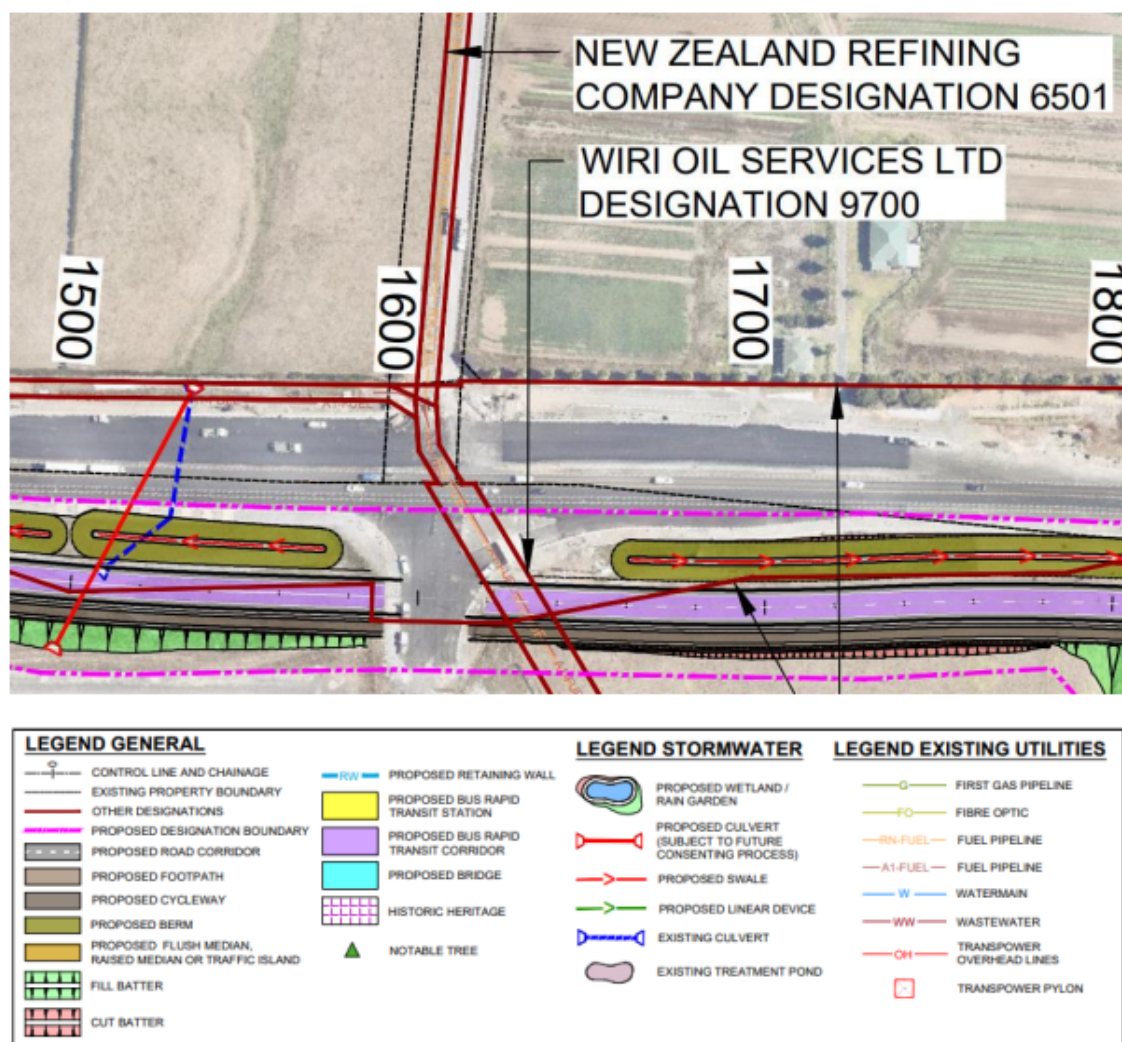


Figure 2: Excerpt from General Arrangement Layout Plan – NOR4A

**Figure 2 above, is an excerpt from the NOR Application Plans showing the location of the proposed works where they intersect with the WAP and RAP. The upgrades are shown to occur on the southern side of Puhinui Road with the proposed bus rapid transit corridor, footpath, and cycleway works to occur within the location of the existing RAP and WAP designations.**

- The RAP is a 170km long high-pressure pipeline running from Marsden Point to the Wiri Oil Terminal at 149 Roscommon Road, Wiri. Channel operates the RAP and is a requiring authority under s166 RMA. The RAP transmits approximately 2.4 billion litres of petroleum and fuels annually, including regular, premium, diesel and Jet A1 aviation fuel.

- 11 From the Wiri Oil Terminal, Jet A1 aviation fuel is supplied to Auckland International Airport through a separate underground pipeline, being the Wiri to Airport pipeline (**WAP**). The WAP is a dedicated 6.9km underground pipeline that solely and continually carries jet fuel from the terminal to the Airport, supplying all of Auckland International Airport's aviation fuel. The Wiri Oil Terminal and WAP are operated by WOSL.
- 12 The Marsden Point Terminal, the Wiri Oil Terminal, the RAP and the WAP are nationally and regionally significant infrastructure assets which are of vital importance to the New Zealand economy. They are an essential part of the national network for the distribution and transmission of petroleum throughout the upper North Island. They support productivity and economic growth and provide secure and affordable energy for the nation's consumers.
- 13 The RAP and the WAP cross under Puhinui Road near the intersection of Puhinui Road and Campana Road and are co-located in the same trench at this location. The road widening works proposed by Auckland Transport by way of NOR4A, therefore, have the potential to result in adverse effects on the RAP and the WAP.
- 14 Easements are in place over land traversed by the pipelines which benefit both WOSL and Channel. The pipelines are also subject to designations under Part 8 of the RMA. The WAP designation is recorded in the Auckland Unitary Plan as designation number 9700 for the purpose of jet fuel transmission. The RAP designation, in this location, is recorded in the Unitary Plan as designation number 6501 for the purpose of the operation, maintenance and repair, upgrade and renewal of the existing petroleum transmission pipeline and ancillary

facilities.

- 15 For both pipelines, the designated corridor is generally 12m wide (i.e. 6m either side of the centreline of the pipeline); although this is reduced to 6m total width (i.e. 3m either side of the centre of the pipeline) where the pipelines are located under roads and rail corridors.
- 16 Section 176 of the RMA provides that no person may, without the prior written approval of Channel and WOSL do anything in relation to land that is subject (respectively) to the RAP and WAP designations that would prevent or hinder the pipelines, including: undertaking any use of the land; subdividing the land; and changing the character, intensity, or scale of the use of the land. Both designations contain a range of specific conditions setting out the scope of works that can be undertaken by the requiring authority within the relevant designations as well as requirements to obtain the written approval of the requiring authority (Channel and WOSL respectively) for the erection of any structure; the planting of any tree or shrub, and any activities that disturb the soil below certain depths.
- 17 Recognising the proximity of their respective infrastructure assets, Channel and WOSL take a co-ordinated approach to management of their pipeline corridors.
- 18 Given the above context, Condition 28 does not adequately recognize and provide for operation of the WAP and RAP designations, where these overlap with the NOR4A designation, as identified above. On the current wording of condition 28, sustainable and integrated management of nationally significant infrastructure is not achieved. This includes:
  - 18.1 Key aspects of design and construction methodology for

activities in close proximity to high pressure petroleum pipelines include around cut and fill depths, soil stability, and the potential need for additional protections (for example, concrete slabbing over the pipeline at the location of heavy vehicle crossings). Appropriate management of these matters will not necessarily be achieved simply by way of adherence to AS/NZS 2885 for third party activities (which is the current NUMP requirement).

18.2 Condition 28 does not refer explicitly to WOSL or Channel. The Council Officer Report recommended an express amendment to Condition 28 to cross-reference Wiri Oil Services Ltd. This amendment was not included by the Council Commissioner recommendations or the Decision.

18.3 The NUMP is intended to manage the interface with affected Requiring Authorities but there is no requirement to incorporate, and (where relevant) give effect to, relevant conditions imposed, or issues raised by requiring authorities under s177 RMA (which are likely to be material to management of network utility infrastructure affected by NOR4A).

18.4 Timescales for the proposed works, reliance on management plans as a primary method for avoiding and managing effects, and the importance of institutional knowledge relating to affected infrastructure, mean that further and additional reference to WOSL and Channel, and their respective pipeline requirements, should be included, as it has been for AIAL.<sup>1</sup>

---

<sup>1</sup> For clarity, WOSL supports the express reference to AIAL (Auckland International Airport Ltd) in the NUMP condition.



18.5 Ensuring that a NUMP is prepared on a comprehensive and integrated basis to manage pre-existing designations and network utility infrastructure, in particular, the WAP and RAP corridors.

18.6 Failure to address the matters identified above, means that condition 28 does not adequately manage identified risks to nationally significant infrastructure. More explicit management, through amended condition wording, will better address the outcomes anticipated by the Auckland Unitary Plan and relevant planning framework.

### **The Appellant seeks the following relief**

- 19 Amend condition 28 to ensure the proposed works under NOR4A address the safety, integrity, protection and access to the designated WAP and RAP pipeline corridors, and otherwise address the matters identified above. This includes, but is not limited to, the following amendments:

#### **28. Network Utility Management Plan (NUMP)**

- (a) A NUMP shall be prepared prior to the Start of Construction for a Stage of Work. [This sub-condition is to be amended to require a comprehensive and integrated approach to preparation of a NUMP, to avoid (where practicable) effects of earlier stages being 'locked in' through a route alignment or construction methodology that does not address or manage pre-existing network utility infrastructure. Alternatively, ensure that staging does not have this effect.]
- (b) The objective of the NUMP is to set out a framework for protecting, relocating and working in proximity to existing network utilities. To achieve the objective, the NUMP shall include methods to:
  - (i) provide access for maintenance at all reasonable times, or emergency works at all times during construction activities;
  - (ii) manage the effects of dust and any other material potentially resulting from construction activities and able to cause material damage, beyond normal wear and tear to overhead transmission lines in the Project area;

- (iii) demonstrate compliance with relevant standards and Codes of Practice including, where relevant, the NZECP 34:2001 New Zealand Electrical Code of Practice for Electrical Safe Distances 2001; AS/NZS 4853:2012 Electrical hazards on Metallic Pipelines; and AS/NZS 2885 Pipelines – Gas and Liquid Petroleum; the Wiri Airport Pipeline Designation 9700 conditions, and the Ruakaka to Auckland Pipeline Designation 6500 and 6501 conditions; and
  - (iv) incorporate, and give effect to, the relevant outcomes (including conditions) identified by approvals granted under s177 RMA for pre-existing ("earlier") Designations.
- (c) The NUMP shall be prepared in consultation with the relevant Network Utility Operator(s) (including Auckland International Airport Limited, and Wiri Oil Services Limited, and Channel Infrastructure NZ Ltd) who have existing assets that are directly affected by the Project. For clarity, and as part of the process of consultation, the draft NUMP shall be provided to the relevant Network Utility Operator(s) for feedback.
  - (d) The development of the NUMP shall consider opportunities to coordinate future work programmes with other Network Utility Operator(s) (including Auckland International Airport Limited, and Wiri Oil Services Limited, and Channel Infrastructure NZ Ltd) during detailed design where practicable.
  - (e) The NUMP shall describe how any comments from the Network Utility Operator (including Auckland International Airport Limited, and Wiri Oil Services Limited, and Channel Infrastructure NZ Ltd) in relation to its assets have been addressed.
  - (f) Any comments received from the Network Utility Operator (including Auckland International Airport Limited, and Wiri Oil Services Limited, and Channel Infrastructure NZ Ltd) shall be considered when finalising the NUMP.
  - (g) Any amendments to the NUMP related to the assets of a Network Utility Operator (including Auckland International Airport Limited, and Wiri Oil Services Limited, and Channel Infrastructure NZ Ltd) shall be prepared in consultation with that asset owner.

19.1 Consequential or associated relief (which may include consequential amendments to related conditions) is also sought.

**The following documents are attached to this notice:**

- Copy of submission by Wiri Oil Services Limited

- A list of names and addresses of persons to be served with a copy of this notice. As it is an extensive list, this will be provided once received from Auckland Council.
- The appellant seeks a waiver of the requirement to attach the decision of Auckland Transport. This is publicly available on the Auckland Council website.

**Dated** this 2<sup>nd</sup> April 2024



---

RB Enright  
Counsel for Wiri Oil Services Limited

Address for service of the Appellant:

Wiri Oil Services Limited

By email to: K3 Legal Ltd (Attention: Chris Lee)

[chris@k3.co.nz](mailto:chris@k3.co.nz)

With copy to Counsel:

Rob Enright, Barrister

By email to: [rob@publiclaw9.com](mailto:rob@publiclaw9.com)

**Advice to recipients of copy of notice of appeal**

*How to become party to proceedings*

You may be a party to the appeal if you made a submission on the matter of this appeal.

To become a party to the appeal, you must –

- (a) within 15 working days after the period for lodging a notice of appeal ends, lodge a notice of your wish to be a party to the proceedings (in form 33) with the Environment Court and serve copies of your notice on the relevant local authority and the appellant; and

- (b) within 20 working days after the period for lodging a notice of appeal ends, serve copies of your notice on all other parties.

If you are a trade competitor of a party to the proceedings, your right to be a party to the proceedings in the court may be limited (see section 274(1) and Part 11A of the Resource Management Act 1991).

You may apply to the Environment Court under section 281 of the Resource Management Act 1991 for a waiver of the above timing or service requirements (see form 38).

\*How to obtain copies of documents relating to appeal

**The copy of this notice of Appeal served on you does not attach a copy of the appellant's submission or the decision appealed. These documents may be obtained, on request, from the appellant.**

Advice

If you have any questions about this notice, contact the Environment Court in Auckland, Wellington, or Christchurch.