

Agenda Item No. RM: 070011 New Zealand Refining Company Limited

RM: 070193 Vector Gas Limited

From: Jeff Kemp, NZCTP, MNZPI.

To: Joint Committee – Kaipara District Council, Rodney District Council and Whangarei District Council

Subject: Assessment of Notice of Requirement for a Designation –
New Zealand Refining Company Limited – Marsden Point to Wiri petroleum pipeline;
Vector Gas Limited – Manukau to Whangarei and Maungaturoto lateral gas pipeline.

Date: 15 February 2008

Applicant: New Zealand Refining Company Limited – Marsden Point to Wiri petroleum pipeline;
Vector Gas Limited – Manukau to Whangarei and Maungaturoto lateral gas pipeline.

Proposal: To Designate on the Planning Maps the location and extent of the –
Existing Marsden Point to Wiri petroleum pipeline;
Existing Manukau to Whangarei and Maungaturoto lateral gas pipeline; and
Include within the District Plan wording which restricts works within or near the Designations.

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Appendix 1: Copy of Notice of Requirement – Note: It is understood that all parties have copies of the Notices. If any party does not have a copy they are asked to contact Council immediately.

Appendix 2: Copy of submissions received.

1 Summary

- The Kaipara District Council has received a “Notice of Requirement” from both New Zealand Refinery Company Limited [NZRC] and Vector Gas Limited [Vector] to identify on the Planning Maps Designations over the existing petroleum fuel line and the natural gas pipeline that traverses over a number of properties within the district. The Notice of Requirement will enable the Designation to be placed on the land for the purpose of protecting the existing facilities of NZRC and Vector and at the same time incorporating District Plan regulation (by way of conditions on designations) to manage any work within or near the Designation.
- The proposed Designations are both located in the Rural Zone and apply to Maps 16, 20 and 23 of the Kaipara District Council Planning Maps and in addition Map 19 and 50 for the Vector Designation.
- The Designation process under the provisions of Section 169 confers that a Notice of Requirement shall be processed as if it is a resource consent with all necessary modifications being made such that references to a resource consent refer to the Notice of Requirement. Such Notice must however be publicly notified.
- The Notice of Requirements were lodged with the six local authorities within which the existing pipeline routes are located between Auckland and Whangarei. Within the public notification process undertaken by Council the NZRC Notice attracted four submissions and the Vector Notice four submissions. Two submitters do not wish to be heard. It is noted that the Hearing for the urban Councils has already taken place.
- Key issues of the proposal including matters identified within the submissions relate to extent of designation area, restrictions to activity within the designation area, upgrading of the existing pipeline facilities; effects upon power transmission lines; status of existing access agreements and necessity for the designation within roads.
- It is considered that the proposal is consistent with the provisions of the relevant planning documents.
- Furthermore, it is considered that the actual and potential effects of the designation will be adequately mitigated through the recommended conditions of consent.
- It is my recommendation, based on the information I have at the time of preparing this report, that the Notices of Requirement be CONFIRMED and that this be recommended to the requiring authorities.

2 Introduction

2.1 My name is Jeffery Victor Kemp. I am a Director and Consultant Planner engaged by Kaipara District Council to assist with the processing of the Notice of Requirement requests lodged by NZR and Vector, which are the subject of this Hearing. I have thirty four years experience working in the planning profession the last eleven years as a Consultant Planner in Northland. I have been involved in a number of landuse and subdivision consents over this time.

2.2 I am a Full Member of the NZ Planning Institute having been a member since 1989. I have considerable experience in local government planning both in New Zealand and Australia and more recently as a Consultant acting on behalf of private clients and local authorities. I hold a Certificate – Making Good Decisions issued by Local Government NZ and the Ministry for the Environment and have been appointed as an Independent Commissioner for the Far North District Council.

2.3 I have been engaged by the Kaipara District Council to report on these applications for Notice of Requirement. I reviewed both applications when lodged and implemented the necessary public notification process. I have not visited the entire route of the Designations given the extent and location. I am nevertheless familiar with the general pattern of activities in the locality of the routes.

2.4 In this assessment, I intend to provide a summary of the proposal, the issues raised by submitters and an assessment of the proposal against the relevant statutory considerations. In undertaking this I am mindful that the Commissioners have considerable background on these proceedings having presided over the Hearings for the “urban” Councils.

3 Proposal

3.1 The Kaipara District Council has received a Notice of Requirement for a Designation from NZRC and Vector to Designate the route of the existing petroleum and natural gas pipeline which runs from Whangarei to Auckland, including the Maungaturoto gas feeder line. The Notice of Requirement is limited to Designating the extent of the existing route and pipelines and the inclusion of rules within the District Plan which manage work undertaken within or near the pipeline routes. This includes private land, rail corridors and public land – roads.

3.2 In summary the two transmission lines are located within an existing easement which is registered against the titles of each property over which the lines traverse. The easements are not however registered on any road or rail corridor. The Designation will follow the same area occupied by the easement wherein it is a nominal width of some 12.0m. However in relation to roads that width was originally reduced to 4.0m for NZRC and 6.0m for Vector. NZRC has now increased that width to 6m.

The Notice of Requirements were accompanied by information required under the Act and Regulations relating to –

- *A description of the designation*
- *The physical and legal description of the site to which the Requirement applies*
- *Nature of the work and any proposed restrictions*
- *The effects that the proposed work will have on the environment*
- *The alternatives considered*
- *The consultation undertaken with parties likely to be affected by the designation, public work, project or work.*

Also accompanying the Requirement Notices were the following information;

- *Plans of the land subject to the Notice of Requirement;*
- *Supporting Information addressing RMA requirements;*
- *Site Photographs;*
- *Location Plans;*
- *Site Investigations Reports including consideration of alternative sites; and*
- *Consultation Report.*

4 Site and Locality

- 4.1 The site and location of the designation are unique by reason that this relates to existing facilities and services within the district. In this regard a designation request typically relates to some future undertaking that would affect a site or locality. The designation requests in these cases are in effect an administrative exercise given the location and alignment of the existing pipe line routes. The location, extent and character of the designation site has been adequately described within the supporting documentation. In summary this can be described as encompassing open areas of pasture, grazing land, forestry blocks, small rural hamlets, public roads and pockets of indigenous and exotic vegetation. Only through undertaking work with the existing easements would there be any change to the existing environment.

5 Submissions

- 5.1 Within the public notification process both the NZRC Notice and the Vector Notice attracted four submissions. The submissions were from the following parties:

Hancock Forest Management [NZ] Limited - NZRC and Vector;
Federated Farmers of New Zealand [Incorporated] - NZRC and Vector;
Telecom New Zealand Limited - NZRC and Vector;
Vector Gas Limited - NZRC;
Transpower New Zealand Limited - Vector.

- 5.2 Key issues raised within the submissions relate to the extent of designation area, restrictions of activity within the designation area, upgrading of the existing pipeline facilities; effects upon power transmission lines; status of existing access agreements and necessity for the designation within roads. The submissions of Hancock Forest, Federated Farmers and Telecom are identical in content for both the designation requests.
- 5.3 Hancock Forests Management [NZ] Limited supports the designations providing no further conditions are imposed beyond those already specified within the easement document. The applicants are invited to respond to the submitters request. The submitter does not want to be heard.
- 5.4 Federated Farmers seeks to be heard. The submitter does not oppose the proposed designations but raises a concern at the potential effects on farming operations in the upgrading or installation of a new pipe line.
- 5.5 Telecom NZ opposes the designations where it involves public roads. The submitter has no objection to the designation over private land. In summary Telecom is concerned at the potential breach of their rights under the Telecommunications Act 2001 to undertake work in the road in terms of conditions which may be imposed by the Council; the designation will create another tier of "consent " by the designator thereby potentially causing delays or financial hardship; the designation of public road by private organisations negates a general presumption that the of use of the road is permitted under other statutory rights; and the designation is not necessary to maintain the integrity of the pipeline. The submitter wishes to be heard.
- 5.6 Vector supports the designation request by NZRC. They wish to be heard.
- 5.7 Transpower at the time of lodging their submission opposed the designation request of Vector. By letter dated 9 January 2008 [copy attached] the submitter has advised that they and Vector have reached agreement based upon the following Condition and Advice note being imposed:-
- Condition*
- All works or activities related to the designation shall be undertaken in compliance with the New Zealand Electrical Code of Practice for Electrical Safe Distances (NZECP 34: 2001).*
- Advice Note*
- Access to overhead transmission lines, poles or supporting structures shall be maintained at all times in accordance with the Electricity Act 1992.*
- 5.8 Transpower supports the condition and advice note and is satisfied these would mitigate any potential adverse effect upon their facilities. The submitter has also advised that subject to the condition and advice note being included within the Designation they neither support or oppose the designation request. In addition they no longer wish to be heard.

5.9 The issues raised in the submissions are relevant and important in determining the outcome of these Notices of Requirements. The matters raised are to be addressed within the consideration of the Effects upon the Environment separately dealt with in the balance of this evidence.

6 Statutory Requirements

6.1 Section 168 of the RMA enables NZRC and Vector to give notice to Council for a Notice of Requirement to Designate the land within which is located the petroleum and natural gas pipelines. A designation is a provision included in the District Plan (as a result of the Requirement) to allow for the development [in this case the presence] of a public work, or utility operation.

6.2 A “Requirement” to designate land is a resource management mechanism by which provision for the work involved is included in the District Plan. The process does not provide approval for the work itself in any other sense, such as, for example, funding.

6.3 The Kaipara District Council is required to conduct a hearing of the Request for Designations and submissions received.

6.4 When making a decision [in this case it will be a recommendation] on the Notices of Requirement, Section 171 of the Act requires that the territorial authority shall have regard to all submissions and the matters set out in section 171 of the Act.

6.5 Section 171 reads as follows –

- (1) When considering a requirement and any submissions received, a territorial authority must, subject to Part 2, consider the effects on the environment of allowing the requirement, having particular regard to –*
- (a) any relevant provisions of –*
 - (i) a national policy statement;*
 - (ii) a New Zealand coastal policy statement;*
 - (iii) a regional policy statement or proposed regional policy statement;*
 - (iv) a plan or proposed plan.*
 - (b) whether adequate consideration has been given to alternative sites, routes, or methods of undertaking the work if –*
 - (i) The requiring authority does not have an interest in the land sufficient for undertaking the work; or*
 - (ii) It is likely that the work will have a significant adverse effect on the environment; and*
 - (c) whether the work and designation are reasonably necessary for achieving the objectives of the requiring authority for which the designation is sought; and*
 - (d) any other matter that the territorial authority considers reasonably necessary in order to make a recommendation on the requirement.*

- 6.6 Once these matters have been considered the territorial authority may recommend, with reasons, to the requiring authority that it:
- Confirm the requirement; or*
 - Modify the requirement; or*
 - Impose conditions; or*
 - Withdraw the requirement.*
- 6.7 The provision that the Council’s consideration of the Requirement Notice is ‘subject to’ Part II of the Act is important and reflects the tenor of determining a resource consent application. Part II of the Act contains its purpose. Section 5 “promotes sustainable management of natural and physical resources”. Section 6 identifies seven matters of national importance which should be recognised and provided for however none would appear to apply to these proceedings.
- 6.8 Section 7 identifies eleven other matters to be had regard to in achieving the purposes of the Act and Section 8 requires that, in achieving the purpose of this Act, all persons exercising functions and powers under it, in relation to managing the use, development, and protection of natural and physical resources, shall “take into account the principles of the Treaty of Waitangi (Te Tiriti o Waitangi)”.
- 6.9 These factors shall be considered in the balance of my report.
- 6.10 The Notices of Requirement also accommodates in part the matters of an Outline Plan required under Section 176A of the Act which specifies that an outline plan of the public work, project or work to be constructed on designated land must be submitted by the requiring authority to the territorial authority to allow the territorial authority to request changes before construction is commenced or commences.
- 6.11 An Outline Plan is required to show:-
- (a) The height, shape, and bulk of the public work, project, or work; and*
 - (b) The location on the site of the public work, project, or work; and*
 - (c) The likely finished contour of the site; and*
 - (d) The vehicular access, circulation, and the provision for parking; and*
 - (e) The landscaping proposed; and*
 - (f) Any other matters to avoid, remedy, or mitigate any adverse effects on the environment.*
- 6.12 An outline plan need not be submitted to the territorial authority if:
- The proposed public work project or work has otherwise been approved under the Act,*

- *The details of the proposed public work, project or work, are incorporated into the designation, or*
 - *The territorial authority waives the requirements for an outline plan.*
- 6.13 The Outline Plan process of the Act in terms of the two Designations is therefore not considered necessary as ... *the details of the proposed public work, project or work, are incorporated into the designation.*
- 6.14 Section 171(1) embodies two levels of assessment whereby differing weight is to be accorded to different matters. These two levels of assessment are as follows:
- 6.15 First, when considering the requirement and any submissions received, the Council must consider the effects on the environment of allowing the requirement, having particular regard to 171(a) – (d) above.
- 6.16 Second, the whole of 171 (1) is subject to Part II of the Resource Management Act (the purpose and principles of the Act). This means that Part II matters have primacy over the other considerations in the event of conflict and should therefore be accorded the greatest weight when making a decision on the designation applications.
- 6.17 The following sections of the report consider these matters in the following order:
- Section 171(1)(a) to (d);
 - Effects on the environment;
 - Part II of the Resource Management Act
- 7 Section 171 (a) - (d)
- 7.1 Section 171(1) (i) and (ii) - National Policy Statement and New Zealand Coastal Policy Statement
- 7.1.1 Section 171(1)(a) of the RMA requires Council to:
“have particular regard to – any relevant provisions of a national policy statement and a New Zealand coastal policy statement... ”. There are no National Policy Statements relevant to the consideration of this designation application. The site is not located within the coastal marine area, and therefore the New Zealand Coastal Policy Statement is not relevant to the consideration of the application.
- 7.2 Section 171(1)(iii) - Northland Regional Policy Statement
- 7.2.1 Section 171(1)(iii) requires Council to
“have particular regard to – Any relevant provisions of a regional policy statement or proposed regional policy statement, a plan or proposed plan”.

7.2.2 The Northland Regional Policy Statement provides an overview of the significant resource management issues for the Northland Region and sets out Objectives, Policies and Methods to achieve integrated management of the region's natural and physical resources. The most direct co-relation of this Statement's outcomes per se to the Notice of Requirements is found within the Objectives and Policies of the Chapter dealing with Energy. In particular the following:-

28.4 Policies and Methods of Implementation

(a) ENERGY PRODUCTION, TRANSMISSION AND DISTRIBUTION

Policies

3. *To ensure that energy generation and transmission facilities are sited, designed and operated safely and efficiently and to avoid, remedy, or mitigate any adverse effects on the environment.*

7.2.3 The Notice of Requirement for the Designations would in my opinion give effect to the Statements outcomes. The proposed designations are therefore not inconsistent with the Objectives, Policies or methods of the Northland Regional Policy Statement.

7.3 Section 171 (1)(iv) -Northland Regional Water and Soil Plan, Coastal Plan and Air Quality Plan

7.3.1 These three documents set out objectives, policies and rules aimed at guiding the management of significant resource management issues within the Northland Region. The Notice of Requirements are not affected by these Plans outcomes.

7.4 Section 171 (1)(iv) -Kaipara District Plan

7.4.1 The District Plan sets out Objectives, Policies and Rules relating to the management of communities and the environment in the District.

7.4.2 The Notices for Designation are sought to facilitate the ongoing integrity of the facilities provided by the two requiring authorities. The District Plan provides a number of relevant objectives and policies within Section 10 Public Works and Services. These have been presented in the supporting information being more particularly:-

10.4.1 Objectives - Public Works and Services

Objective 1:

To plan for and promote the development of public works and utility services in a co-ordinated, cost effective and environmentally sensitive manner.

(1) Works of Requiring Authorities

Policy 1:

To provide for the effective operation of public works and related facilities and limit any associated environmental impacts.

Methods of Implementation

- 1 Designate on the planning maps land used or proposed to be used for public works or other similar purposes as sought by requiring authorities
- 2 Rules which list the subdivision of designated land as a controlled activity.

(3) Utility Services

Policy 1:

To enable utility services to be developed and maintained whilst controlling the environmental impacts of major structures.

Policy 2:

To recognise the adverse impact that some land use and subdivision activities can have on the operation of utility services.

Methods of Implementation

- 5 Identify the location of major natural gas distribution lines on the planning maps and highlight the associated provisions of the Natural Gas Supply Regulations which control activities near them.

7.4.3 The proposed designations are in my opinion giving effect to the outcomes of the District Plan. The designations enable the effective operation of the facilities and are being promoted within the Methods of Implementation prescribed within the District Plan.

7.5 Section 171 (1)(b)

7.5.1 Section 171(1)(b) requires Council to have particular regard as to whether adequate consideration has been given by the requiring authority to alternative sites and methods of achieving the project or work.

7.5.2 This Section of the Act is an either, or, clause. It is to be read such that the applicants need only consider alternatives if it has 'no interest in the land sufficient for undertaking the work OR 'if the work is likely to have a significant adverse effect on the environment'.

7.5.3 The requiring authorities for the designations do not own the land over which the designation is to be applied. They do however have a registered interest in the land via an existing easement. That is in itself considered to provide sufficient interest to undertake the work. It may not however enable the replacement or upgrading of the facility which is not being sought within the designation requests. Nevertheless NZRC and Vector have considered alternative locations for the pipelines in this case a greenfields situation. Their conclusions are that the existing location is the best option given the presence of the facilities and the avoidance of new undertaking to relocate the lines. I would concur with their assessment.

7.5.4 Turning to the matter of significant effects I have concluded in the balance of this report that effects of this nature are not present.

- 7.5.5 Both NZRC and Vector have considered alternative locations, options and methods including the use of road and coastal tanker transportation of their products. It would go without saying that the transportation by road will in itself create additional effects that do not eventuate with the current transportation of the product via the pipelines. Road transport has its attendant costs in adding to the number of vehicles on the road network and an increase in fuel consumption itself.
- 7.5.6 Turning to the transportation of the products by coastal tanker there are inherent risks in moving the product along the coast due to weather conditions, submerged objects and a potential leakage of the product itself. NZR has also advised that the facilities in Auckland are being reviewed in terms of abandonment due to the limited number of berths and draught. Vector has advised that the use of coastal tanker is extremely expensive and technically not available in New Zealand.
- 7.5.7 From the information provided, I am of the opinion that both requiring authorities have made responsible efforts to assess alternatives and have chosen what I believe to be the best option available.
- 7.6 Section 171 (1)(c)
- 7.6.1 Under section 171(1)(c), when considering a Notice of Requirement, particular regard has to be given to “whether the work and designation are reasonably necessary for achieving the objectives of the requiring authority for which the designation is sought”. Before considering whether the designation is “reasonably necessary” for achieving the objectives of the project, some preliminary observations are necessary.
- 7.6.2 The three main functions of a designation can be described as:
- To provide statutory authorization for a work to be carried out;
 - To protect the designated land, which may or may not be in the ownership of the requiring authority, from activities which could compromise the designated purpose;
 - To provide a mechanism for initiating the acquisition of the land subject of a designation.
- 7.6.3 Once the designation is in place and works complete, the activity is able to take place without any further authorizations, unless there is a need to change the designated purpose or change the boundary of the designation. This provides certainty to the requiring authority that it can undertake its ongoing operation and maintenance of the facility without further authorisations, provided the work is in accordance with the approved designation.
- 7.6.4 The term “reasonably necessary” relates to the work and designation. Within the supporting documentation lodged by NZR and Vector both have detailed the manner in which the designations will enhance and facilitate the attainment of their relevant authorities objectives. I would concur with their assessments and repeat from the planning report presented on behalf of Waitakere City Council which succinctly summarises the situation:-

The two Requiring Authorities have identified a need to enhance the protection afforded the pipelines by the existing easement restrictions by designating the entire route including where the pipeline is located within public land and road reserve. Recording the designation in a statutory public document – District Plan – provides the pipelines with a separate category of protection against future changes or developments that could compromise the infrastructure. More particularly, the designations will give a clear indication to the public and future developers [via LIM and PIM applications] of the existing use of the land, and ensure that both planning and the issuing of resource consents and building consents occur in an informed and integrated manner.

Vector is the sole provider of gas transmission services to retail gas suppliers and electric generators in the Auckland and Northland Regions and the NZR Petroleum pipeline delivers refined products from NZ's only oil refinery to serve an ever expanding Auckland Region and its major airport. Both products need to be delivered safely and without interruption, and as such the existing pipelines are a critical and fundamental part of maintaining essential fuel and gas supplies.

Maintaining the status quo, is not considered to be an option given the past incidents which have threatened the integrity of the pipeline. Although a designation is not foolproof, it is an additional mechanism to identify and manage the pipeline and works within its vicinity. The designation would clearly identify a utility that could be somewhat un-expected within the road environment, as opposed to other infrastructure which is largely located and therefore anticipated within most road networks such as telecommunications and water / waste water infrastructure.

7.7 Section 171 (1)(d)

7.7.1 Section 171(1)(d), enables the consideration of any other matter by Council. By reason of the Hearings having been completed within the urban councils I have the benefit of detailing some matters that arose through those proceedings which have been reviewed by the two requiring authorities. Matters which are considered as reasonably necessary to have particular regard are: –

Consultation

7.7.2 The RMA does not require the requiring authority to undertake consultation prior to lodging a Notice of Requirement, nor does it impose any process or thresholds for the type and amount of consultation. However, the Act (through the requirements of Form 18) does require that a statement of any consultation undertaken with parties likely to be affected by the designation. NZR and Vector have in my opinion undertaken adequate consultation in relation to their designation requests.

Width of Designation

7.7.3 NZR at the time of lodging their Notice of Requirement sought a width of 4m within road and rail corridor crossings. To ensure consistency with Vector they are asking that this be

increased to 6m. Contemporaneously Vector has within the previous Hearings sought to reduce the width of their crossing designations to 6m. I would support the approach to achieve consistency within the designation process by both authorities and although technically such amendments by NZR could be beyond the scope of the original request it is in my opinion pragmatic to adopt what is proposed as I do not consider any party would be prejudiced by the amendments. In support of this opinion I note that Vectors original request was at a greater width within which is located the NZR designation. Consequently I do not consider that a jurisdictional matter would arise. The authorities may wish to comment on these aspects.

Depth of Restriction

- 7.7.4 NZR has also increased the depth of the restriction to match that of Vector. This is increased from 0.375m to 4.0m.

Description of Designations

- 7.7.5 NZR and Vector have advised that to ensure both designations have the same outcome they have amended the description of the request to make explicit reference to operation, repair, upgrade and renewal of the existing pipeline. This will clarify the scope of 'upgrade' and 'renewal' and more particularly 'replacement'.

Duration and Extent of Maintenance

- 7.7.6 NZR has also confirmed that the prospect of works involved any maintenance, repair or renewal would only arise on a 10 yearly cycle, save any third party or force majeure interference of the facility. I understand that Vector has also accepted the 10 year period.

Proposed Restrictions Within Designation

- 7.7.7 Both NZR and Vector have provided a draft set of restrictions and conditions that would apply to the designations within their Notices of the Requirement. By reason of the Hearings of the Notices by the urban councils both requiring authorities, the reporting planners and the Commissioners identified matters which should be better reflected within the restrictions and conditions. Both requiring authorities have revised the restrictions which apply to third parties and the conditions which apply to NZR and Vector in giving effect to the designation itself. These restrictions and conditions are in my opinion appropriate as attached to the recommendations of my report.

8 The effects on the environment of allowing the requirement

- 8.1.1 The actual or potential effects of the activity involve a number of considerations including some matters which have been raised in the submission. The presence of the facilities within the designations per se are not considered to create effects on the environment rather it is undertaking the work associated with the facilities that may lead to effects. In this case possible upgrade maintenance or renewal. As such any effects may be adverse or positive, temporary or permanent or of a high or low probability.

- 8.2 The following considers effects recognised as relevant to the designations. Again with the benefit of the previous Hearings such effects can be summarised as restrictions on the use of the land within the designated area, noise, potential discharges to air and land, lighting, vibration, amenity including visual effects and safety of people and property.
- 8.2.1 The restriction of the use of the land within the designated area is understood to reflect the same restrictions which have been incorporated into the existing easement documents. This matter having been raised by Federated Farmers who would be concerned at any greater restriction being applied via the designation process. It would assist if both NZR and Vector could address this aspect within their evidence to the Commissioners.
- 8.3 I do note that the planning report from Auckland City did raise the matter of the designation being applied to roads wherein no easement exists. Kaipara District Council does not have any concern with the presence of the designations within the road.
- 8.5 The noise which may be created through the works within the designated area is detailed in the supporting information as complying with the thresholds of the District Plan.
- 8.6 The discharge to air and land is considered to be an ongoing operational threat for both NZR and Vector by reason that any unintentional discharge has a potential to affect the efficiency of the facility and more critically create a hazard situation. The supporting information details the operational regime and mitigation processes used to reduce this potential situation. Given these processes and the legislative framework the two requiring authorities must operate within I do consider that this effect is adequately mitigated.
- 8.7 Lighting may be present during work within the designated area particularly for emergency situations. This would in my opinion be limited in scope and occurrence and as such I do not consider that this effect would be more than minor.
- 8.8 This existing presence of the facilities would not alter the amenity or visual qualities within the designation. The existing situation establishes the environment as it is today. Works in the designation could create a visual effect through the presence of machinery, plant and other construction materials. Again I consider that the presence of these items would be of a temporary nature over the duration of the work.
- 8.9 The safety of people and property is an effect that has been taken into account by the requiring authorities. Both authorities appear to have a collaborative health and safety regime to sustain the integrity of their facilities and those who could affect or be affected by the presence of their facilities.
- 8.10 In addition the continued presence and operation of the facilities are considered as providing a positive benefit to the local, regional and national economy.
- 8.11 Overall I consider that the effects on the environment of allowing the designations are no more than minor.

Part II of the Resource Management Act

9.1 The consideration of a Notice of Requirement is subject to the purpose and principles under Part II of the Resource Management Act.

9.2 Under section 5(1), the purpose of the Act is to promote the sustainable management of natural and physical resources, with “sustainable management” defined under section 5(2) as meaning:

“managing the use, development, and protection of natural and physical resources in a way, or at a rate, which enables people and communities to provide for their social, economic, and cultural wellbeing and for their health and safety while:

- (a) Sustaining the potential of natural and physical resources (excluding minerals) to meet the reasonably foreseeable needs of future generations; and*
- (b) Safeguarding the life-supporting capacity of air, water, soil, and ecosystems and*
- (c) Avoiding, remedying, or mitigating any adverse effects of activities on the environment.”*

9.3 Considering the provisions of Section 5, I am of the opinion that the Notices of Requirement for the Designations will result in managing the use and development of the land in a sustainable manner that will continue to enable people and the community to provide for their present and future economic and social well being. I am satisfied that the Designations will contribute to and facilitate safeguarding the life supporting capacity of the air, water and ecosystems within the land the facilities are located in a manner that avoids, remedy’s and mitigates any adverse effects on the environment.

9.4 There would not appear to be any matters within Section 6 which apply to the Notice of Requirement.

9.5 Having regard to the matters set out in Section 7, those considered particularly relevant are:

Section 7 (b) The efficient use and development of natural and physical resources

Section 7 (c) The maintenance and enhancement of amenity values

Section 7 (f) Maintenance and enhancement of the quality of the environment:

9.6 The requiring authorities have, in my opinion, taken particular regard to the efficient use and development of nature and physical resources, in this case the land upon which the designation of being placed and the existing facilities within that land, through ensuring the continued use and operation of the pipelines. The designation reflects the provisions of the existing easement agreements which maintains the amenity values and the quality of the environment through the adopted operational methods and appropriate conditions of consent.

9.7 Under section 8 of the Act it is stated as follows:

“In achieving the purpose of this Act, all persons exercising functions and powers under it, in relation to managing the use, development, and protection of natural and physical resources, shall take into account the principles of the Treaty of Waitangi (Te Tiriti o Waitangi).

9.8 It would appear from the information available and the public consultation process followed that the designation process taken into account the principles of the Treaty of Waitangi.

9.9 Overall I am of the opinion the application is giving effect to the provisions of Part II of the Act.

10 Conclusions

10.1 NZR and Vector has sought to attain a Designation within the District Plan over the alignment of their existing pipeline facilities between Auckland and Whangarei. The Designation is sought to provide for the operation, maintenance, repair, upgrade and renewal of the existing pipeline facilities. The actual and potential effects of the Designation are primarily related to the work in managing the facilities. These effects are considered to be of a temporary nature, limited in area and mitigated through adoption of best practise techniques during construction and operation. It is therefore considered that the effects of the proposed Designations on the environment and people’s health, safety and wellbeing will be no more than minor.

10.2 Those submissions which were received have in my opinion been adequately considered and addressed by the requiring authorities which has in part resulted I modifications and amendments by the authorities to their original Notices of Requirement.

10.3 The requiring authorities have limited their request for the Designation to that area of private land encompassed with the existing easement agreement and have identified best practise methods that will be implemented in undertaking any work within the Designation. The Designations will also apply to road reserves.

10.4 Both NZR and Vector have investigated and assessed alternatives to the proposed location of their facilities. In light of concerns of some of the submitters the applicant has been invited to assess the Notice of Requirements and how the concerns may be mitigated.

10.5 It is concluded that the proposed Designations requested by NZR and Vector over the existing gas and petroleum pipelines with the Kaipara District satisfies the considerations required under section 171, specifically that:

- The proposed work is not inconsistent with provisions of relevant regional and district statutory documents,
- Alternative sites and alternatives have been adequately considered, and
- The designation is reasonably necessary for achieving the objectives of the work for which the designation is sought.

11 Recommendation 1

11.1 That pursuant to Section 171(2) of the Resource Management Act 1991, the Kaipara District Council recommends to CONFIRM the Notice of Requirement for a Designation by the New Zealand Refining Company Limited (NZRC) is for the operation, maintenance, repair, upgrade and renewal of the existing petroleum transmission pipeline and all ancillary facilities as required for the transportation of refined fuel products as detailed in the Notice of Requirement prepared by Boffa Miskell, received 17 January 2007 and described as follows within the Purpose and limitations and subject to the following Restrictions, Conditions and Advice Notes :

- (i) the existing 275 mm petroleum transmission pipeline
- (ii) the existing isolation valves
- (iii) cathodic protection terminals
- (iv) surface marker posts and warning signage

located between the northern district boundary extending from Artillery Road and the southern district boundary extending from Mangawhai Road at Kaiwaka.

Purpose Of Designation

1.1 The designation by the New Zealand Refining Company Limited (NZRC) is for the operation, maintenance, repair, upgrade and renewal of the existing petroleum transmission pipeline and all ancillary facilities as required for the transportation of refined fuel products and described as follows:

- (i) the existing 275 mm petroleum transmission pipeline
- (ii) the existing isolation valves
- (iii) cathodic protection terminals
- (iv) surface marker posts and warning signage

located between the northern district boundary extending from Artillery Road and the southern district boundary extending from Mangawhai Road at Kaiwaka.

The designation is subject to the following limitations:

- Renewal shall be limited to works on the petroleum transmission pipeline and will be limited to the replacement of sections of the pipeline with sections having equivalent diameter, and no more than [50] lineal metres of pipeline will be excavated at any one time.
- Upgrade will be limited to adding or replacing aboveground components, provided the relevant district plan permitted activity standards are complied with.

1.2 The designation affects land legally described in Appendix III "List of Property Owners located along the RAP Route" to the Notice of Requirement as submitted to Kaipara District Council.

Restrictions

2.1 No person shall:

- erect any structure, or
- plant any tree or shrub, or
- disturb the soil below a depth of 0.4m from the surface, or
- do anything on or to the land which would or could damage or endanger the pipeline

within the designated corridor without first obtaining the written consent of NZRC.

For the avoidance of doubt, such written consent shall not be required for ordinary cultivation, digging, excavating, tiling and working soil to a depth of less than 0.4m. A minimum of 1m cover shall remain above the top of the pipe after any ordinary cultivation, digging or excavation has taken place.

Landowners and/or developers can apply to NZRC for consent to do any work on the land within the designation corridor. NZRC will review each application with the landowner and/or developer and work to achieve the most suitable outcome for all parties. NZRC may give its written consent subject to reasonable conditions including the power to revoke the consent in specified circumstances.

NZRC agrees to not unreasonably withhold its consent.

Works or activities that would or could damage or endanger the pipeline include, for example, the use of heavy compaction or vibration machinery and equipment, pile-driving machinery and equipment, trenching, excavation or drilling (including micro drilling and directional drilling).

2.2 No person shall undertake road opening, trenching, excavation or drilling (including micro drilling and directional drilling), or lay underground high voltage power lines >450v either in parallel with or at right angles to NZRC's petroleum pipeline, without first obtaining NZRC's written approval.

2.3 However, the restrictions in 2.1 and 2.2 above do not apply, and NZRC's consent is not required under section 176 of the Resource Management Act 1991 to the following activities, provided that a Road Opening Notice has been obtained from the Kaipara District Council:

- Any road widening or associated works in accordance with any existing road designation;
- Any repair, maintenance or upgrade to existing road surface in accordance with any existing road designation;
- Any repair, maintenance or upgrade to any existing network utility infrastructure.

2.3 Provided in all cases that:

- Soil is not disturbed below a depth of 0.4m from the surface and
- After works, the finished surface level is not reduced below the pre-existing surface datum.

Where works in the above categories would exceed a depth of 0.4m from the surface and/or after completion of such works the finished surface level is proposed to be reduced below the pre-existing surface datum then application shall be made to NZRC for consent to do the works. NZRC will review each application with the applicant and work to achieve the most suitable outcome for all parties. NZRC may give its written consent subject to reasonable conditions, and agrees not to unreasonably withhold its consent.

Conditions

- 3.1 Subject to these conditions, works shall be undertaken in general accordance with the plans and information submitted by the requiring authority in the documents entitled "*Proposed Designation Relating to the Refinery to Auckland Pipeline*".
- 3.2 The maximum width of the designation shall be as follows:
- For land, not including roads and rail corridor 12 metres
 - For land comprising roads and rail corridor under which the pipeline crosses, or is contained within 6 metres.
- 3.3 All pipeline maintenance, repair, upgrade and renewal activities within road reserves that involve excavation shall be pursuant to the Road Opening Notice requirements of the Council.
- 3.4 All pipeline maintenance, repair, upgrade and renewal activities outside road reserves that involve excavation shall be subject to the standard requirements of Kaipara District Council.
- 3.5 Where maintenance, repair, upgrade and renewal activities involving excavation are undertaken pursuant to the designation, appropriate sediment and erosion measures shall be employed, in accordance with Northland Regional Council's Water and Soil Plan.
- 3.6 Scheduled maintenance, repair, upgrade or renewal work and associated activities shall be limited to between the hours of 7am and 7pm, Monday to Saturday (excluding public holidays) except with the prior approval of the Council.
- 3.7 All works or activities related to the designation shall be undertaken in compliance with the New Zealand Electrical Code of Practice for Electrical Safe Distances 2001 (NZECP 34:2001).
- 3.8 The noise from maintenance works, repair, upgrade and renewal activities shall be measured, assessed and controlled in accordance with the procedures and limits set out NZS 6803:1999 Acoustics — Construction Noise.

- 3.9 NZRC shall consult with Transit New Zealand at least 30 working days prior to carrying out any works or activities on, in or under State Highways, except in emergency situations.
- 3.10 NZRC shall consult with the Council at least 15 working days prior to carrying out any works or activities on, in or under Council-controlled roads, except in emergency situations.

Advice Notes

- 4.1 Access to overhead electricity transmission lines, poles or supporting structures shall be maintained at all times in accordance with the Electricity Act 1992.
- 4.2 NZRC has confirmed that it will consult with land owners and occupiers who may be affected by maintenance works, repair, upgrade and renewal activities to reach fair and reasonable arrangements for entry, and to address any matters regarding effects of maintenance, repair, upgrade and renewal activities, including restoring the surface of the land following maintenance, in accordance with its relevant obligations under the pipeline easement.
- 4.3 This designation traverses earlier Transit New Zealand designations that are protected pursuant to sections 176 and 177 of the Resource Management Act 1991, and State Highways which are protected pursuant to sections 51 and 52 of the Transit New Zealand Act 1989. Where that occurs, the Requiring Authority may only carry out its activities with the written consent of Transit New Zealand.
- 4.4 The Requiring Authority is obliged to operate the pipelines and ancillary facilities in accordance with the requirements of AS2885: Pipelines - Gas and Petroleum Liquids, the Health and Safety in Employment (Pipelines) Regulations 1999 and in accordance with the authorisations issued for those facilities in terms of the Petroleum Act 1937.
- 4.5 Emergency works may be performed in line with the Vector advice booklet by excavation to 0.4m depth and thereafter the use of hand tools only. Emergency operations should be notified immediately to Vector Gas Ltd or their agent who provide an on-call service outside of normal working hours.
- 4.6 An authority may need to be obtained from the New Zealand Historic Places Trust to destroy, damage or modify an archaeological site in accordance with the Historic Places Act 1993.

Recommendation 2

- 10.1 That pursuant to Section 171(2) of the Resource Management Act 1991, the Kaipara District Council recommends to CONFIRM the Notice of Requirement for a Designation by Vector Gas Limited for the operation, maintenance, repair, upgrade and renewal of the existing gas transmission pipeline and all ancillary facilities as required for the transportation of gas as detailed in the Notice of Requirement prepared by Vector Gas Limited, received 27 June 2007 and described as follows within the Purpose and limitations and subject to the following Restrictions, Conditions and Advice Notes :

- (i) The existing 150mm gas transmission pipeline between the Kaipara District Council boundary near Vipond Road and the Whangarei District Council boundary near Artillery and Massey Roads;
- (ii) The lateral pipeline from Brown Road Main Line Valve to the Maungaturoto Delivery Point;
- (iii) The Delivery Point at Maungaturoto;
- (iv) The Main Line Valve station at Brown Road;

located between the northern district boundary extending from Artillery Road and the southern district boundary extending from Mangawhai Road at Kaiwaka.

Purpose of Designation

1 The designation by Vector Gas Limited (Vector) is for the operation, maintenance and repair, upgrade and renewal of the existing gas transmission pipeline and ancillary facilities as required for the transportation of gas and described as follows:

- (i) The existing 150mm gas transmission pipeline between the Kaipara District Council boundary near Vipond Road and the Whangarei District Council boundary near Artillery and Massey Roads;
- (ii) The lateral pipeline from Brown Road Main Line Valve to the Maungaturoto Delivery Point;
- (iii) The Delivery Point at Maungaturoto;
- (iv) The Main Line Valve station at Brown Road;

The following limitations apply :

- Renewal shall be limited to works on the gas transmission pipeline and will be limited to replacement with sections having equivalent diameter and maximum allowable operating pressure, and no more than [50] lineal metres of pipeline will be excavated at any particular time.
- Upgrade will be limited to adding or replacing above ground components provided the district plan relevant permitted activity standards are complied with.

The designation affects land legally described in Appendix 2 "Schedule of Affected Land" of Volume 3 of the Notice of Requirement as submitted to the Kaipara District Council.

Restrictions

2.1 No persons shall:

- Erect any building or construction on the designated corridor;
- Erect any fence or other improvement or plant any tree or shrub;
- Disturb the soil below a depth of 0.4 metres from the surface; or
- Do anything on or to the Land within the designated corridor which would or could damage or endanger the Pipelines;

without first obtaining the written consent of Vector.

Landowners and/or developers can apply to Vector for consent to do any work on the land within the designation corridor. Vector will review each application with the landowner/developer and work to achieve the most suitable outcome for all parties. Vector may give its written consent subject to reasonable conditions including the power to revoke the consent in specified circumstances. Vector agrees to not unreasonably withhold its consent.

Works or activities that would or could damage or endanger the Pipelines include, for example, the use of heavy compaction or vibration machinery or equipment, pile driving machinery and equipment, trenching, excavation or drilling (including micro drilling and directional drilling).

2.2 No person shall undertake road opening, trenching, excavation or drilling (including micro drilling and directional drilling), or lay underground high voltage power lines either in parallel with or at right angles to Vector's gas pipelines, without first obtaining Vector's written approval.

2.3 However, the restrictions in 2.1 and 2.2 above do not apply, and Vector's consent is not required under section 176 of the Resource Management Act 1991 to the following activities, provided that a Road Opening Notice has been received from the Rodney District Council:

- Any road widening or associated works in accordance with any existing road designation;
- Any repair, maintenance or upgrade to existing road surface
- Any repair, maintenance or upgrade to any existing network utility infrastructure

Provided in all cases that:

- Soil is not disturbed below a depth of 0.4m from the surface; and
- After works, the finished surface level is not reduced below the pre-existing surface datum.

Where works in the above categories would exceed 0.4m in depth from the surface and/or after completion of such works the finished surface level is proposed to be reduced below the pre-existing surface datum then application shall be made to Vector Gas for consent to do the works. Vector Gas will review each application with the applicant and work to achieve the most suitable outcome for all parties. Vector Gas may give its written consent subject to reasonable conditions, and agrees to not unreasonably withhold its consent.

Conditions

3.1 The works to give effect to the designation shall be generally in accordance with the plans and information submitted by Vector Gas Limited (Vector) in support of the Notice of Requirement in the documents entitled "Manukau – Whangarei Gas Pipelines – Notice of Requirement for a Designation" (Volumes 1, 2 and 3).

3.2 The maximum width of the designation shall be as follows:

Location	Designation Width
Within Road reserve (along road reserve/state highway)	6 metres
Within Road reserve (across road reserve/state highway)	6 metres
Non road reserve	12 metres (other than those areas where the existing easement width is less than 12 metres wide – in such circumstances the designation width shall be the width of the easement)
Within Rail Reserve (across railway corridors)	8 metres

3.3 All pipeline maintenance, repair, upgrade or renewal activities outside road reserves that involve excavation shall be in accordance with the Guide to Land Access for the Oil and Gas Industry and Landowners.

3.4 All pipeline maintenance, repair, upgrade or renewal activities within road reserves that involve excavation shall be subject to Road Opening Notice requirements of Kaipara District Council.

3.5 Where maintenance, repair, upgrade and renewal activities involving excavation are undertaken pursuant to the designation, appropriate sediment and erosion measures shall be employed, in accordance with the Operative Kaipara District Plan.

3.6 Scheduled maintenance, repair, upgrade or renewal work and associated activities shall be limited to between the hours of 7am and 7pm, Monday to Saturday (excluding public holidays) unless the prior approval of the Council has been obtained.

3.7 All works or activities related to the designation shall be undertaken in compliance with the New Zealand Electrical Code of Practice for Electrical Safe Distances 2001 (NZECP 34:2001).

3.8 The noise from maintenance works shall be measured, assessed and controlled in accordance with the procedures and limits set out NZS 6803:1999 Acoustics — Construction Noise.

3.9 Vector shall consult with Transit New Zealand at least 30 working days prior to carrying out any works or activities on, in or under State Highways, except in emergency situations.

3.10 Vector shall consult with the Council at least 15 working days prior to carrying out any works or activities on, in or under Council-controlled roads, except in emergency situations.

Advice Notes

- 4.1 Access to overhead electricity transmission lines, poles or supporting structures shall be maintained at all times in accordance with the Electricity Act 1992.
- 4.2 Vector has confirmed that it will consult with land owners and occupiers who may be affected by maintenance or repair works to reach fair and reasonable arrangements for entry, and to address any matters regarding effects of maintenance activities, including restoring the surface of the land following maintenance, in accordance with its relevant obligations under the pipeline Registered Easement.
- 4.3 This designation traverses earlier Transit New Zealand designations that are protected pursuant to sections 176 and 177 of the Resource Management Act 1991, and State Highways which are protected pursuant to sections 51 and 52 of the Transit New Zealand Act 1989. Where that occurs, the Requiring Authority may only carry out its activities with the written consent of Transit New Zealand.
- 4.4 The Requiring Authority is obliged to operate the pipelines and ancillary facilities in accordance with the requirements of AS2885: Pipelines — Gas and Petroleum Liquids, the Health and Safety in Employment (HSE) Pipelines Regulations 1999 and in accordance with the authorisations issued for those facilities in terms of the Petroleum Act 1937.
- 4.5 Emergency works may be performed in line with the Vector “High Pressure Pipeline Safety Information” advice booklet by excavation to 0.4m depth and thereafter the use of hand tools only. Emergency operations should be notified immediately to Vector Gas Ltd who provide an on-call service outside of normal working hours.
- 4.6 An authority may need to be obtained from the New Zealand Historic Places Trust to destroy, damage or modify an archaeological site in accordance with the Historic Places Act 1993.

Recommendation 3

Description Of Designations In District Plan

- 11.3 The designations shall be described within Section 10 of the Kaipara District Plan as “Petroleum Transmission Purposes” and “Gas Transmission Purposes” and shall be identified as applicable on the District Planning Maps No 16, 19, 20, 23 and 50 .
- 11.4 Section 10 of the District Plan shall be amended as follows –
[Words added in are underlined , and words deleted are ~~strike-out~~]
Amendment 1 – Amend and insert the following.

10.1.5 Natural Gas Supplies

The main natural gas pipeline between Auckland and Whangarei passes through the eastern part of the district. The lines are managed by ~~Natural Gas Transmission~~ Vector

Gas Limited. A lateral pipeline ~~feeder line~~ comes off the main transmission line in the Hakarau (Brown Road) area to serve the Fonterra Northland Co-operative Dairy Co Ltd's milk processing plant at Maungaturoto.

10.1.6 Petroleum Fuel Supplies

The main petroleum fuel pipeline between Auckland and Whangarei passes through the eastern part of the district. The line is managed by New Zealand Refining Company Limited.

Amendment 2 – Add to list

10.3.1

- New Zealand Refining Company Limited – Petroleum Fuel Transmission Pipeline
- Vector Gas Ltd – Gas Transmission Pipelines

Amendment 3- Add the following words and sentence.

10.3.3

Utility services such as electricity, sewer, telephone, gas, and water supply lines are found throughout the district. In addition the petroleum fuel line between Whangarei and Auckland runs through the district.

Insert the wording "gas transmission pipelines over 2000kpa" as follows :

The utility services separately listed are electricity transmission lines (high voltage), electricity substations, gas transmission pipelines over 2000kpa, telephone exchanges and telecommunication works.

Amendment 4- Insert a new section within Section 10.3 Management Issues as

follows :

10.3.10 Protection of Petroleum Fuel and Gas Transmission Corridor

Petroleum fuel and gas transmission pipelines run through the eastern part of the district. It is important that the community be aware of the presence of these lines in a public forum and the availability of high pressure gas as a fuel and a source of energy. Whilst protection is afforded the lines by easement through freehold land the pipelines may be vulnerable to interference from changing land uses and urban encroachment. The pipeline corridor contains for most part the two transmission lines and is small in area but crosses a large number of properties, predominantly within the rural environment. In addition a single transmission line for gas extends to the Maungaturoto community.

Amendment 5- Add and delete the following words:

10.4.2 – (3) Utility Services – Methods of Implementation.

2. Rules which list telephone exchanges , telecommunication works , petroleum fuel and gas transmission pipelines and transmission lines (high voltage) as controlled or discretionary activities in zones depending on the purposes of the zones.

5. Identify the location of major petroleum fuel and natural gas transmission distribution lines on the planning maps and highlight the associated provisions of the Natural Gas Supply Regulations-Pipelines – Gas and Liquid Petroleum Standards (AS/ NZS2885) which control activities near them.

Amendment 6 - Insert a new section after Section 10.6 Rules-Network Utilities as follows :

10.6A Restrictions – Petroleum Transmission Purposes and Gas Transmission Purposes

10.6A.1 Restrictions and Controls

The restrictions and conditions that apply to the Designation for Petroleum Fuel Transmission Purposes of New Zealand Refinery Company Limited are detailed in Appendix 10C and the Designation for Gas Transmission Purposes of Vector Gas Limited are detailed with Appendix 10D.

Amendment 7- Add to the Schedule the new Designations:

APPENDIX 10A : SCHEDULE OF DESIGNATIONS

Designation	Requiring Authority	Underlying Zoning	Planning Maps
<u>Petroleum</u>	<u>NZ Refinery Company Ltd</u>	<u>Rural</u>	<u>19,20 & 23</u>

Transmission

Purposes

<u>Gas Transmission</u>	<u>Vector Gas Ltd</u>	<u>Rural</u>	<u>16,19,20,23 & 50</u>
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Purposes

Amendment 8 - Add two new appendices - APPENDIX 10C and APPENDIX 10D

**APPENDIX 10 C – NEW ZEALAND REFINERY COMPANY LIMITED
DESIGNATION : PETROLEUM TRANSMISSION PURPOSES**

The following Limitations , Restrictions and Conditions apply to the Designation:
Petroleum Transmission Purposes.

Limitations

10C.1

The following limitations apply :

- Renewal shall be limited to works on the petroleum transmission pipeline and will be limited to the replacement of sections of the pipeline with sections having equivalent diameter, and no more than [50] lineal metres of pipeline will be excavated at any one time.
- Upgrade will be limited to adding or replacing aboveground components, provided the relevant district plan permitted activity standards are complied with.

Restrictions

10C.2

No person shall:

- erect any structure, or
- plant any tree or shrub, or
- disturb the soil below a depth of 0.4m from the surface, or
- do anything on or to the land which would or could damage or endanger the pipeline

within the designated corridor without first obtaining the written consent of NZRC.

For the avoidance of doubt, such written consent shall not be required for ordinary cultivation, digging, excavating, tiling and working soil to a depth of less than 0.4m. A minimum of 1m cover shall remain above the top of the pipe after any ordinary cultivation, digging or excavation has taken place.

Landowners and/or developers can apply to NZRC for consent to do any work on the land within the designation corridor. NZRC will review each application with the landowner and/or developer and work to achieve the most suitable outcome for all parties. NZRC may give its written consent subject to reasonable conditions including the power to revoke the consent in specified circumstances.

NZRC agrees to not unreasonably withhold its consent.

Works or activities that would or could damage or endanger the pipeline include, for example, the use of heavy compaction or vibration machinery and equipment, pile-driving machinery and equipment, trenching, excavation or drilling (including micro drilling and directional drilling).

10C.3

No person shall undertake road opening, trenching, excavation or drilling (including micro drilling and directional drilling), or lay underground high voltage power lines >450v either in parallel with or at right angles to NZRC's petroleum pipeline, without first obtaining NZRC's written approval.

10C.4 However, the restrictions in 2.1 and 2.2 above do not apply, and NZRC's consent is not required under section 176 of the Resource Management Act 1991 to the following activities, provided that a Road Opening Notice has been obtained from the Kaipara District Council:

- Any road widening or associated works in accordance with any existing road designation;
- Any repair, maintenance or upgrade to existing road surface in accordance with any existing road designation;
- Any repair, maintenance or upgrade to any existing network utility infrastructure.

Provided in all cases that:

- Soil is not disturbed below a depth of 0.4m from the surface and
- After works, the finished surface level is not reduced below the pre-existing surface datum.

Where works in the above categories would exceed a depth of 0.4m from the surface and/or after completion of such works the finished surface level is proposed to be reduced below the pre-existing surface datum then application shall be made to NZRC for consent to do the works. NZRC will review each application with the applicant and work to achieve the most suitable outcome for all parties. NZRC may give its written consent subject to reasonable conditions, and agrees not to unreasonably withhold its consent.

Conditions

10C.5 Subject to these conditions, works shall be undertaken in general accordance with the plans and information submitted by the requiring authority in the documents entitled "*Proposed Designation Relating to the Refinery to Auckland Pipeline*".

10C.6 The maximum width of the designation shall be as follows:

- For land, not including roads and rail corridor 12 metres
- For land comprising roads and rail corridor under which the pipeline crosses, or is contained within 6 metres.

10C.7 All pipeline maintenance, repair, upgrade and renewal activities within road reserves that involve excavation shall be pursuant to the Road Opening Notice requirements of the Council.

10C.8 All pipeline maintenance, repair, upgrade and renewal activities outside road reserves that involve excavation shall be subject to the standard requirements of Kaipara District Council.

10C.9 Where maintenance, repair, upgrade and renewal activities involving excavation are undertaken pursuant to the designation, appropriate sediment and erosion measures shall be employed, in accordance with Chapter [] of the Kaipara District Plan.

- 10C.10 Scheduled maintenance, repair, upgrade or renewal work and associated activities shall be limited to between the hours of 7am and 7pm, Monday to Saturday (excluding public holidays) except with the prior approval of the Council.
- 10C.11 All works or activities related to the designation shall be undertaken in compliance with the New Zealand Electrical Code of Practice for Electrical Safe Distances 2001 (NZECP 34:2001).
- 10C.12 The noise from maintenance works, repair, upgrade and renewal activities shall be measured, assessed and controlled in accordance with the procedures and limits set out NZS 6803:1999 Acoustics — Construction Noise.
- 10C.13 NZRC shall consult with Transit New Zealand at least 30 working days prior to carrying out any works or activities on, in or under State Highways, except in emergency situations.
- 10C.14 NZRC shall consult with the Council at least 15 working days prior to carrying out any works or activities on, in or under Council-controlled roads, except in emergency situations.

APPENDIX 10 D – VECTOR GAS LIMITED DESIGNATION : GAS TRANSMISSION PURPOSES

The following Limitations, Restrictions and Conditions apply to the Designation: Gas Transmission Purposes.

Limitations

- 10D.1 The following limitations apply :
- i] Renewal shall be limited to works on the gas transmission pipeline and will be limited to replacement with sections having equivalent diameter and maximum allowable operating pressure, and no more than [50] lineal metres of pipeline will be excavated at any particular time.
 - ii] Upgrade will be limited to adding or replacing above ground components provided the district plan relevant permitted activity standards are complied with.

Restrictions

- 10D.2 No persons shall:
- Erect any building or construction on the designated corridor;
 - Erect any fence or other improvement or plant any tree or shrub;
 - Disturb the soil below a depth of 0.4 metres from the surface; or
 - Do anything on or to the Land within the designated corridor which would or could damage or endanger the Pipelines;
- without first obtaining the written consent of Vector.

Landowners and/or developers can apply to Vector for consent to do any work on the land within the designation corridor. Vector will review each application with the landowner/developer and work to achieve the most suitable outcome for all parties. Vector may give its written consent subject to reasonable conditions including the power to revoke the consent in specified circumstances. Vector agrees to not unreasonably withhold its consent.

Works or activities that would or could damage or endanger the Pipelines include, for example, the use of heavy compaction or vibration machinery or equipment, pile driving machinery and equipment, trenching, excavation or drilling (including micro drilling and directional drilling).

10D.3 No person shall undertake road opening, trenching, excavation or drilling (including micro drilling and directional drilling), or lay underground high voltage power lines either in parallel with or at right angles to Vector's gas pipelines, without first obtaining Vector's written approval.

10D.4 However, the restrictions in 2.1 and 2.2 above do not apply, and Vector's consent is not required under section 176 of the Resource Management Act 1991 to the following activities, provided that a Road Opening Notice has been received from the Rodney District Council:

- Any road widening or associated works in accordance with any existing road designation;
- Any repair, maintenance or upgrade to existing road surface;
- Any repair, maintenance or upgrade to any existing network utility infrastructure.

Provided in all cases that:

- Soil is not disturbed below a depth of 0.4m from the surface; and
- After works, the finished surface level is not reduced below the pre-existing surface datum.

Where works in the above categories would exceed 0.4m in depth from the surface and/or after completion of such works the finished surface level is proposed to be reduced below the pre-existing surface datum then application shall be made to Vector Gas for consent to do the works. Vector Gas will review each application with the applicant and work to achieve the most suitable outcome for all parties. Vector Gas may give its written consent subject to reasonable conditions, and agrees to not unreasonably withhold its consent.

Conditions

10D.5 The works to give effect to the designation shall be generally in accordance with the plans and information submitted by Vector Gas Limited (Vector) in support of the Notice

of Requirement in the documents entitled “Manukau – Whangarei Gas Pipelines – Notice of Requirement for a Designation” (Volumes 1, 2 and 3).

10D.6 The maximum width of the designation shall be as follows:

<u>Location</u>	<u>Designation width</u>
<u>Within Road reserve (along road reserve/state highway)</u>	<u>6 metres</u>
<u>Within Road reserve (across road reserve/state highway)</u>	<u>6 metres</u>
<u>Non road reserve</u>	<u>12 metres (other than those areas where the existing easement width is less than 12 metres wide – in such circumstances the designation width shall be the width of the easement)</u>
<u>Within Rail Reserve (across railway corridors)</u>	<u>8 metres</u>

10D.7 All pipeline maintenance, repair, upgrade or renewal activities outside road reserves that involve excavation shall be in accordance with the Guide to Land Access for the Oil and Gas Industry and Landowners.

10D.8 All pipeline maintenance, repair, upgrade or renewal activities within road reserves that involve excavation shall be subject to Road Opening Notice requirements of Kaipara District Council.

10D.9 Where maintenance, repair, upgrade and renewal activities involving excavation are undertaken pursuant to the designation, appropriate sediment and erosion measures shall be employed, in accordance with the Operative Kaipara District Plan.

10D.10 Scheduled maintenance, repair, upgrade or renewal work and associated activities shall be limited to between the hours of 7am and 7pm, Monday to Saturday (excluding public holidays) unless the prior approval of the Council has been obtained.

10D.11 All works or activities related to the designation shall be undertaken in compliance with the New Zealand Electrical Code of Practice for Electrical Safe Distances 2001 (NZECP 34:2001).

10D.12 The noise from maintenance works shall be measured, assessed and controlled in accordance with the procedures and limits set out NZS 6803:1999 Acoustics — Construction Noise.

10D.13 Vector shall consult with Transit New Zealand at least 30 working days prior to carrying out any works or activities on, in or under State Highways, except in emergency situations.

10D.14 Vector shall consult with the Council at least 15 working days prior to carrying out any works or activities on, in or under Council-controlled roads, except in emergency situations.

Reasons for the Recommendation

- 1 The designation is reasonably necessary for achieving the objectives of the NZR and Vector.
- 2 Alternatives sites, routes and methods have been adequately considered by the requiring authorities.
- 3 The designations are not inconsistent with any provisions in the Northland Regional Council Policy Statement, Regional Water and Soil Plan, Air Quality Plan, or the Kaipara District Plan.
- 4 The designations are in accordance with the provisions in Part II of the Act in that the natural and physical resources are sustainably managed.
- 5 The areas on which the designations are planned has been limited to the extent of the existing easements registered against the titles of the land which has been occupied by the facilities for a number of years resulting in no more than minor effects on the environment .
- 6 The purpose of the Resource Management Act will be served by the designations being confirmed and made subject to conditions to ensure that any adverse environmental effects are avoided, remedied and mitigated.

Report Prepared by: Jeff Kemp, MNZPI, NZCTP

Date

Reviewed by: Venessa Anich , Policy Manager
 Kaipara District Council

Date