

**BEFORE THE INDEPENDENT HEARING PANEL FOR THE
PROPOSED CENTRAL HAWKES BAY DISTRICT PLAN**

UNDER of the Resource Management Act 1991
IN THE MATTER OF Proposed Central Hawkes Bay District Plan
AND
IN THE MATTER OF Further Submitter (3) by Firstgas Limited

WRITTEN STATEMENT OF EVIDENCE OF GRAEME JOHN ROBERTS

Hearing Stream 5:

**Hazards and Risks, Contaminated Land, Hazardous Substances, Natural Hazards, Earthworks,
Mining and Quarrying, and Subdivision – General**

Evidence date: 24 August 2022

Hearing Commencement date: 7 September 2022

INTRODUCTION

Qualifications and Experience

1. My name is Graeme John Roberts.
2. I have practised as a planning professional for over 40 years. I hold a MA (Hons) in Geography from the University of Canterbury and a Diploma in Town Planning from the University of Auckland. I have been a Full Member of the New Zealand Planning Institute since 1981.
3. I am currently employed at Beca Limited in the position of Technical Director – Planning. I have been employed in this capacity since 2000. Prior to this I worked in a variety of planning roles with central government in NZ and Hong Kong and consultancies in Hong Kong and NZ.
4. I have supported Firstgas Limited (Firstgas) (and its predecessors) in relation to resource management matters since the early 2000's. I am familiar with the approach that Firstgas have in terms of their assets and activities and the approach to resource management framework and processes.

Code of Conduct

5. I confirm that I have read the 'Code of Conduct' for expert witnesses contained in the Environment Court Practice Note 2014 and my evidence has been prepared in compliance with that Code. Unless I state otherwise this evidence is within my sphere of expertise and I have not omitted to consider material facts known to me that might alter or detract from the opinions I express.

Scope of Evidence

6. My written evidence covers the submission points lodged by Firstgas in relation to the Hazard and Risks, Earthworks and Subdivision frameworks. I have also read the following relevant s42A Reports as they relate to Firstgas' submissions (and others where relevant), and my evidence responds to the commentary and recommendations in those reports where necessary to do so:

- (a) Officer's Report: Subdivision (General) – Janeen Kydd-Smith, dated 8 August 2022;
 - (b) Officer's Report: Earthworks, Mining & Quarrying - Rowena Macdonald, dated 8 August 2022; and
 - (c) Officer's Report: Contaminated Land and Hazardous Substances - Rowena Macdonald, dated 8 August 2022.
7. My written evidence will briefly address the following:
- (a) The planning background for Firstgas' submissions and an outline of the need to provide sufficient recognition and protection of the high-pressure gas transmission network in the District in higher order planning documents / frameworks.
 - (b) My responses to the recommendations made in the Section 42A reports on Firstgas' submissions.

Planning Background and Higher Order Planning Documents

8. Ultimately, the purpose of the Resource Management Act 1991 (RMA) is to promote the sustainable management of natural and physical resources. The term 'sustainable management' is defined in Section 5 and includes enabling people and communities to provide for their social, economic and cultural well-being and for their health and safety.
9. In my view, reference to 'economic', 'social well-being' and 'health and safety' in Section 5 of the RMA puts gas related services and activities at the heart of the overall purpose of the RMA. The gas network delivers significant benefits to people and communities, supporting their social and economic well-being, as well as providing for their health and safety. Activities and operations associated with the gas transmission network clearly provides a critical role in this context for the Central Hawkes Bay region.
10. The RMA recognises the importance of infrastructure pipelines that distribute or transmit natural or manufactured gas and regulates the provision of infrastructure.

This is demonstrated through recognising Firstgas, the network utility operator, as a Requiring Authority under Section 167 of the RMA.

11. The Hawkes Bay Regional Policy Statement 2019 (HBRPS) recognises the importance of physical resources and infrastructure to enable communities to provide for their social, economic and cultural wellbeing and the importance of achieving quality built forms that mitigate reverse sensitivity effects on physical infrastructure. This recognition is further demonstrated by the following objectives in the HBRPS:

Objective 1 To achieve the integrated sustainable management of the natural and physical resources of the Hawke's Bay region, while recognising the importance of resource use activity in Hawke's Bay, and its contribution to the development and prosperity of the region.

Objective UD1 Establish compact, and strongly connected urban form throughout the Region, that achieves quality built environments that: avoids, remedies or mitigates reverse sensitivity effects on existing strategic and other physical infrastructure.

Objective UD5 Ensure through long-term planning for land use change throughout the Region, that the rate and location of development is integrated with the provision of strategic and other infrastructure, the provision of services, and associated funding mechanisms.

12. The Central Hawkes Bay Plan is required to 'give effect' to these higher order planning documents or in other words implement. My view is that the relevant HBRPS objectives related to infrastructure imparts a clear enabling and protective focus in relation to the gas network across the region, including the Central Hawkes Bay District.

13. Objective 1 recognises the importance of physical resources such as the gas transmission network and its contribution to the development and prosperity of the region.
14. Objective UD1 recognises the importance of achieving built environments which avoid, remedy or mitigate reverse sensitivity effects on existing strategic and other physical infrastructure. This aligns with Firstgas' objective to avoid reverse sensitivity effects of the Gas Transmission network.
15. Objective UD5 recognises the importance of the rate and location of development in relation to infrastructure, including the Gas Transmission network. This provides a clear and directive focus that the Central Hawkes Bay District Plan shall include policies and rules that protect regionally significant infrastructure from incompatible new subdivision, use and development occurring under, over, or adjacent to the infrastructure.
16. The Firstgas Gas Network is appropriately recognised in the Strategic Directions of the Proposed District Plan, thereby acknowledging its strategic importance to the District in terms of its economic and social wellbeing.

Section 42A Report Recommendations

17. I have set out in Appendix A the submissions lodged by Firstgas (as contained in the 42A Reports in relation to the Hazards and Risks, Earthworks and Subdivision frameworks), the recommendation made on those submissions, and whether I agree or disagree with the recommendation.

Section 42A Report Recommendations – Subdivision (General)

SUB-S4 Building Platforms

18. Following a review of the Section 42A report, I concur with the recommendations made in that report to accept Firstgas' further submissions in opposition of both submission S121.071 Federated Farmers of New Zealand, which seeks to amend standard SUB-S4 to remove reference to the 20m building setback from the Gas Transmission Pipeline and 30m setback from above ground equipment forming part

of the Gas Transmission Network (being SUB-S4(4) and SUB-S4(5), respectively); and submission S129.102 Kainga Ora – Homes and Communities, which similarly seeks to delete sub-clauses (4) and (5) from standard SUB-S4.

19. Together, sub-clause (4) and (5) provide an appropriate mechanism for managing actual or potential reverses sensitivity effects of subdivision and land use on the nationally significant gas transmission network. Therefore, it is my opinion that sub-clauses (4) and (5) are not deleted from standard SUB-S4, as sought.
20. Moreover, I agree with the analysis provided by the Reporting Officer that standard SUB-S4 gives effect to the objectives of the RPS insofar as avoiding or mitigating the adverse effects on existing physical infrastructure arising from the location and proximity of sensitive land use activities.

SUB-AM18 Assessment Matters

21. Following a review of the Section 42A report, I concur with the recommendation made in that report to accept Firstgas' further submission in opposition of submission S129.122 Kainga Ora – Homes and Communities, which seeks the deletion of SUB-AM18 assessment matters.
22. SUB-AM18 assessment matters relate to subdivisions with building platforms and / or vehicle access within proximity of the Gas Transmission Network. These assessment matters provide guidance for Council when assessing resource consent applications for the subdivision of land that is located within the specified setbacks stated in standard SUB-S4 (4) and (5). Therefore, it is my opinion that SUB-AM18 assessment matters are retained, as notified, to guide Council during the assessment of resource consent applications that contravene standard SUB-S4.

Section 42A Report Recommendations – Earthworks, Mining & Quarrying

Definition - Earthworks

23. Following a review of the Section 42A report, I concur with the recommendation made in that report to accept Firstgas' further submission in support of submission S79.003 Transpower New Zealand Ltd and submission S121.233 Federated

Farmers of New Zealand, which seek to retain the definition of 'Earthworks', as notified.

24. The definition of 'Earthworks' reflects the mandatory definition provided in the National Planning Standards. Therefore, the definition should be retained, as notified.

EW-R6 Earthworks within 20m of the Gas Transmission Network

25. Following a review of the Section 42A report, I concur with the recommendation made in that report to accept Firstgas' further submission in opposition of submission S121.088 Federated Farmers of New Zealand, which seeks to delete rule EW-R6 in its entirety.
26. Rule EW-R6 relates to setbacks for earthworks from the Gas Transmission Network. In the interest of health and safety, the protection of regionally significant infrastructure, and the actual or potential reverse sensitivity effects resulting from earthworks in proximity to the Gas Transmission Network, I consider that rule EW-R6 is retained, as notified. I consider that District Plan rules are an appropriate mechanism to address actual or potential reverse sensitivity effects resulting from earthworks on the Gas Transmission Network and, on that basis, seek that rule EW-R6 is retained.

EW-R2 Ancillary Rural Earthworks

27. Following a review of the Section 42A report, I concur with the recommendation made in that report to accept Firstgas' further submission in opposition of submission S121.085 Federated Farmers of New Zealand, which seeks the deletion of the reference to comply with standards EW-S1 – EW-S8 from rule EW-R2.
28. Rule EW-R2 provides a permitted activity for ancillary rural earthworks where compliance can be achieved with standards EW-S1 to EW-S8, when applicable. I note that standards EW-S1 to EW-S8 do not include any specific separation distances for earthworks from the Gas Transmission Network. Rather, rule EW-R6 *Earthworks within 20m of the Gas Transmission Network* regulates the separation distance of earthworks from the Gas Transmission Network. I note that the

Reporting Officer has also reached this conclusion in relation to Firstgas' further submission¹.

29. The Reporting Officer recommends retaining reference to standards EW-S1 – EW-S8 contained in rule EW-R6 stating that, “these are all reasonable and appropriate standards to apply to ancillary rural earthworks”² and, “do[es] not support removing the requirement to comply with them”². While these standards do not apply to earthworks within proximity to the Gas Transmission Network, as a matter of principle, I support the position of the Reporting Officer to retain the standards for the reasons provided.
30. In response to Firstgas' further submission (FS3.018), the Reporting Officer recommends inserting the words (including ancillary rural earthworks) in the rule heading for rule RW-R6 to provide clarity for plan users. I support this minor amendment to the rule heading of rule EW-R6 as this ensures plan users are made aware of the permitted separation distance for earthworks within proximity to the Gas Transmission Network (that is, rule EW-R6) when reviewing the thresholds for earthworks ancillary to rural activities.

Section 42A Report Recommendations – Hazardous Substances and Contaminated Land

HAZS-R1 The storage, handling or use of hazardous substances (except Major Hazardous Facilities)

31. Following a review of the Section 42A report, I concur with the recommendation made in that report to accept, in part, Firstgas' further submissions in support of submission S81.063 Horticulture New Zealand, which seeks to retain rule HAS-R1, and in opposition of submission S121.121 Federated Farmers of New Zealand, which seeks to delete rule HAZS-R1.
32. Rule HAZS-R1 relates to the storage, handling or use of hazardous substances (except for Major Hazardous Facilities) in all zones, subject to the following conditions:

¹ Officer's Report: Earthworks, Mining & Quarrying, dated 8 August 2022, para 6.3.18

² Officer's Report: Earthworks, Mining & Quarrying, dated 8 August 2022, para 6.3.17

- a) *All relevant Standards in the underlying zone are complied with*
- b) *The activity does not involve the use of explosives within 60m of any part of the Gas Transmission Network.*

33. In response to submissions by the Oil Companies, the New Zealand Defence Force and Federated Farmers New Zealand, the Reporting Officer recommends deleting condition (a) from rule HAZS-R1 because the way the rule is framed is problematic³ – triggering a resource consent for the storage, handling or use of hazardous substances based on a breach of the underlying zone standards. The Reporting Officer concludes that the intent of rule HAZS-R1 is to provide a Permitted Activity pathway where not a ‘Major Hazardous Facility’ and subject to avoiding use of explosive within 60m of the Gas Transmission Network³.
34. I agree with the position of the Reporting Officer in relation to the intent of rule HAZS-R1. In particular, to retain clause (b) to ensure that the storage, handling or use of hazardous substances does not result in the use of explosive within 60m of the Gas Transmission Network. I support the deletion of clause (a) from rule HAZS-R1 for the reasons provided by the Reporting Officer.

Conclusion

35. In summary, my view is that the gas transmission network provides for peoples’ and communities’ well-being and health and safety. These matters are at the heart of sustainable management as defined by Section 5 of the RMA.
36. I consider the relevant provisions as recommended in the Section 42A reports will appropriately:
- (a) recognise Firstgas’ transmission network and pipeline by providing appropriate provisions throughout the plan and set a platform to recognise the strategic importance of this network to the Central Hawkes Bay District;
 - (b) provide for the safe, efficient and effective operation, maintenance, replacement, upgrade, removal and/ or development of the network;

³ Officer’s Report: Contaminated Land and Hazardous Substances, dated 8 August 2022, para 6.3.4

- (c) give effect to the relevant policies of the HBRPS and Strategic Objectives of the Proposed plan; and
- (d) will ensure that the Regionally Significant Infrastructure is protected from subdivision and future development through the consenting process - allowing the Firstgas Gas Transmission Network to operate efficiently and safely.

Graeme John Roberts

24 August 2022

Appendix A

Table 1: Summary of my opinion on the Section 42A Hazards and Risks, Earthworks and Subdivision – Firstgas Submissions

Submission reference	Provision	Submission intent	Section 42A report recommendation	My opinion on the section 42A recommendation
Subdivision (General)				
(FS3.015)	SUB-S4	<p>Firstgas opposes submission (S121.071 Federated Farmers of New Zealand) that seeks to amend SUB-S4(4) & (5) by deleting reference to accommodating building platforms within stated setbacks from the Gas Transmission Pipeline and Network in favour of simply providing easement agreements.</p> <p>SUB-S4(4) relates to the subdivision of land containing the Gas Transmission Network.</p>	Accept	Agree
(FS3.016)	SUB-S4	<p>Firstgas opposes further submission (FS129.102 Kainga Ora – Homes and Communities) that seeks to delete sub-clause (2), (3), (4) and (5).</p> <p>SUB-S4(4) relates to the subdivision of land containing the Gas Transmission Network.</p>	Accept	Agree
(FS3.017)	SUB-AM18	<p>Firstgas opposes submission (S129.122 Kainga Ora – Homes and Communities) that seeks to delete SUB-AM18.</p> <p>SUB-AM18 assessment matter relates to subdivisions with building platforms and / or vehicle access within proximity of the Gas Transmission Network.</p>	Accept	Agree
Earthworks, Mining & Quarrying				
(FS3.001)	EARTHWORKS (Definition)	Firstgas supports submission (S79.003 Transpower New Zealand Ltd) that seeks to retain the definition of 'Earthworks'.	Accept	Agree
(FS3.002)	EARTHWORKS (Definition)	Firstgas supports submission (S121.233 Federated Farmers of New Zealand) that seeks to retain the definition of 'Earthworks' as proposed.	Accept	Agree

(FS3.019)	EW-R6	<p>Firstgas opposes submission (S121.088 Federated Farmers of New Zealand) that seeks EW-R6 is deleted (including all provisions for the Gas Transmission Network).</p> <p>EW-R6 regulates setbacks for earthworks from the Gas Transmission Network.</p>	Accept	Agree
(FS3.018)	EW-R2	<p>Firstgas opposes submission (S121.085 Federated Farmers of New Zealand) that seeks EW-R2 be amended to remove the links to the performance standards.</p> <p>EW-R2 relates to ancillary rural earthworks.</p>	Accept	Agree
Contaminated Land and Hazardous Substances				
(FS3.013)	HAZS-R1	<p>Firstgas supports submission (S81.063 Horticulture New Zealand) that seeks HAZS-R1 is retained as notified.</p> <p>HAZS-R1 relates to the storage, handling or use of hazardous substances (except Major Hazardous Facilities).</p>	Accept	Agree
(FS3.014)	HAZS-R1	<p>Firstgas opposes submission (S121.121 Federated Farmers of New Zealand) that seeks HAZS-R1 be deleted (and a new policy be inserted – refer to S121.253).</p> <p>HAZS-R1 relates to the storage, handling or use of hazardous substances (except Major Hazardous Facilities).</p>	Accept in part	Agree