

**BEFORE THE INDEPENDENT HEARING PANEL FOR THE
PROPOSED WELLINGTON CITY COUNCIL DISTRICT PLAN**

UNDER of the Resource Management Act 1991

IN THE MATTER OF Proposed Wellington City Council District
Plan

AND

IN THE MATTER OF Submitter (304) and Further Submitter (097)
by Firstgas Limited

WRITTEN STATEMENT OF EVIDENCE OF GRAEME JOHN ROBERTS

**Hearing Stream 5:
General District Wide Matters**

Evidence date: 18 July 2023

Hearing Commencement date: 1 August 2023

INTRODUCTION

Qualifications and Experience

1. My name is Graeme John Roberts.
2. I have practiced 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 General Wide District Matters. 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 the report where necessary to do so:

- (a) Wellington City Proposed District Plan – Part 2 – District Wide Matters – Subdivision – Hannah van Haren-Giles, dated 3 July 2023;
 - (b) Wellington City Proposed District Plan – Part 2 – District Wide Matters – Earthworks – Hannah van Haren-Giles, dated 3 July 2023;
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 report 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 Wellington District, and indeed the wider Region and beyond.
10. The Greater Wellington Regional Policy Statement 2013 (GWRPS) recognises the importance of infrastructure, and furthermore protects that infrastructure, to enable communities to provide for their social, economic and cultural wellbeing. In this context, *Regionally Significant Infrastructure* is defined as including pipelines for the distribution or transmission of natural or manufactured gas or petroleum. The

GWRPS recognises and protects the gas transmission network through the following objective and policies within the GWRPS:

Objective 10 *The social, economic, cultural and environmental, benefits of regionally significant infrastructure are recognised and protected.*

Policy 7 *Recognising the benefits from renewable energy and regionally significant infrastructure – regional and district plans.*

Policy 8 *Protecting regionally significant infrastructure – regional and district plans.*

Policy 39 *Recognising the benefits from renewable energy and regionally significant infrastructure.*

11. The Wellington City Council District Plan is required to 'give effect' to this higher order planning document or in other words implement it. My view is that the bundle of GWRPS policies related to the gas transmission network (as regionally significant infrastructure) imparts a clear enabling and protective focus in relation to the operation and maintenance of the gas network across the District, and indeed the wider region.
12. In respect of the outcome sought in the GWRP, Objective 10 seeks to recognise and protect the social, economic, cultural and environmental, benefits of regionally significant infrastructure.
13. In the enabling context, the explanation to Policy 7 recognises the benefits of people having access to energy in order to meet their needs. The ability to recognise this is reliant on that energy network (i.e. the gas transmission network) operating effectively and efficiently, as well as being able to be maintained and upgraded (inclusive of access to that network).

14. Policy 8 imparts a clear and directive protective focus in that the Wellington District Plan shall include policies and rules that protect regionally significant infrastructure, including from incompatible new subdivision, use and development occurring under, over, or adjacent to the infrastructure. The explanation to Policy 8 confirms that protecting regionally significant infrastructure does not mean that all land uses or activities under, over, or adjacent are prevented. I am aware that this approach aligns with the way in which Firstgas operate their network, but ultimately that network must be allowed to efficiently and effectively operate and be maintained and upgraded, in a manner that protects people, property and the environment.

Section 42A Report Recommendations

15. I have set out in **Appendix A** the submissions lodged by Firstgas (as contained in the s42A Reports in relation to the Subdivision and Earthworks Chapters), the recommendation made on those submissions, and whether I agree or disagree with the recommendation.
16. I note that the s42A Reporting Officer recommends accepting the majority of the submission points sought by Firstgas. Therefore, I have focused on these provisions and how I think they can be strengthened to achieve objective 10 of the GWRPS as well as the following Strategic Objectives of the District Plan:
17. SCA-01 Infrastructure is established, operated, maintained, and upgraded in Wellington City so that:
 1. The social, economic, cultural, and environmental benefits of this infrastructure are recognised;
 2. The City is able to function safely, efficiently and effectively;
 3. The infrastructure network is resilient in the long term; and
 4. Future growth and development is enabled and can be sufficiently serviced.
18. SCA-03 Additional infrastructure is incorporated into new urban developments of a nature and scale that supports Strategic Objective UFD-O6 or provides significant benefits at a regional or national scale.

Section 42A Report Recommendations – Subdivision

Rule SUB-R29 – Subdivision of land containing a Gas Transmission Pipeline Corridor

19. The subdivision of land within close proximity to the Gas Transmission Network has the potential to create adverse effects on its effective and efficient operation, maintenance, and upgrading. This includes the ability for Firstgas to access the network. With the assistance of Firstgas, and for context to the relief being sought, I have listed and summarised below a number of recent subdivisions that have had the potential to compromise the effective and efficient operation, maintenance and upgrading of the network:

- (a) The following exemplifies the impact of land use change to the pipeline operation. While this is an Auckland based example, this provides a snapshot of multiple effects at one location.

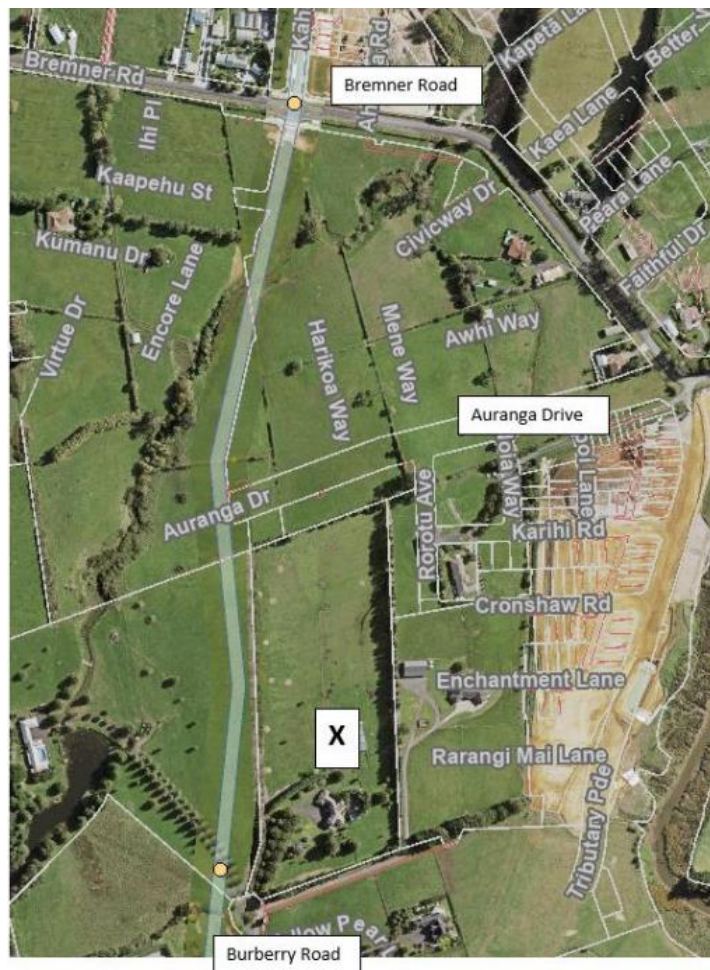


Figure 1: Auranga Development, Auckland. Source: FGL Internal GIS

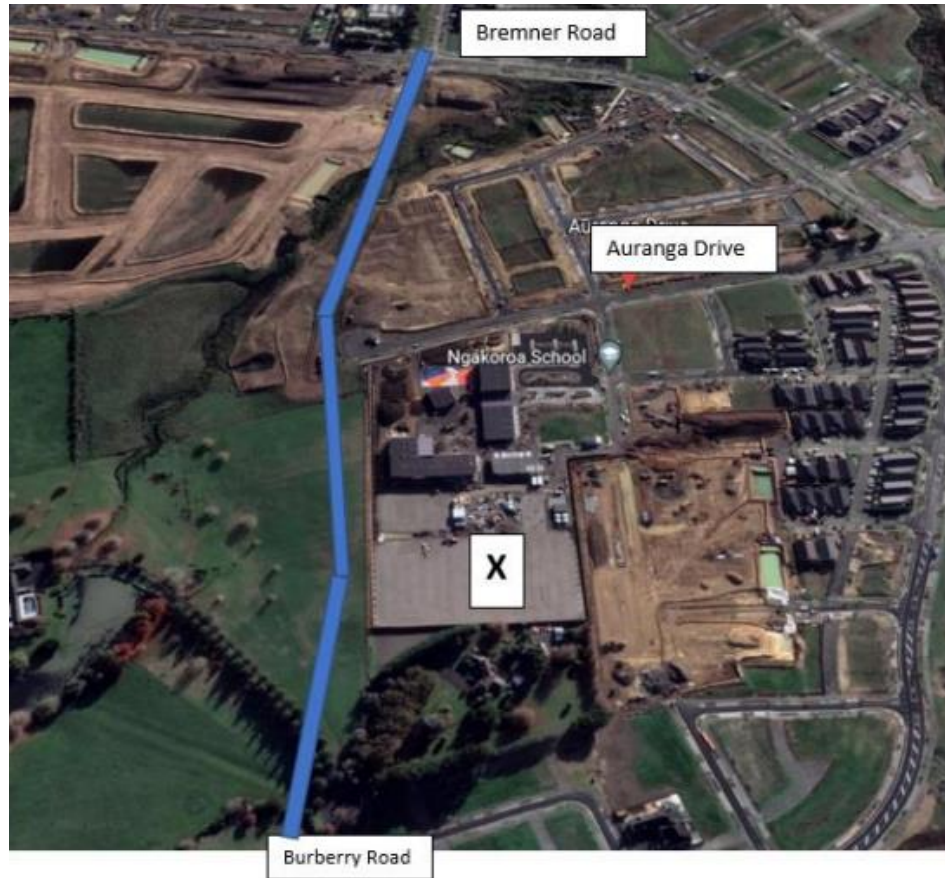


Figure 2: Auranga Development, Auckland.

Source: <https://earth.google.com/web/search/Auranga+Drive,+Karakā/>

The above two views show the changing environment around the gas pipeline corridor. The pipeline, installed within a rural environment is now subject to earthworks, services installation including new watermain, hundreds of new residential dwellings, new roading infrastructure, and a new school; all within close proximity.

Firstgas does not hold a designation at this location and was not considered an affected party under the consenting processes. As such, Firstgas's ability to achieve good outcomes for the pipeline operation, as well as those who will end up living and working nearby are limited to good faith negotiations.

Firstgas work with land developers and act on reasonable grounds, enabling works to occur within the pipeline easement corridor provided they follow Firstgas works procedures, which aim to keep the pipeline and people safe.

- (b) The below is an example of a subdivision which had the potential to result in undesirable access outcomes for Firstgas:



Figure 3: Proposed Subdivision at Awa Road, Kumeu (Proposed Lots 3, 4, 5 and 6):
Source: Developers subdivision plans

The pipeline easement, which runs north to south, is shown by the orange areas labelled 'A', 'S', 'AA', 'AB', 'B', 'C', and 'F'. 51. Proposed Lot 5 is subject to gas pipeline easement in favour of Firstgas. The pipeline easement is located at the rear of the lot, and this is separated from the road frontage (Awa Road) by a waterbody. Physical access to the pipeline easement is therefore not possible within the new legal boundaries of Proposed Lot 5. 52.

Pipeline easements are often not written to provide access to the pipeline within adject land. To clarify, Proposed Lot 3 holds access rights from Awa Road, however the pipeline easement rights relating to Proposed Lot 3 may not be used access Proposed Lot 5. Without a designation, there is no requirement for the landowner, nor the council in its decision-making assessments, to require consideration of the pipeline and enable physical access.

In this example, the landowner was providing access to the rear of Proposed Lot 5 via a right of way over area labelled 'R'. Access for Firstgas over this area would have proven difficult once the residential property was developed. The landowner rejected Sensitivity: General a request from Firstgas for right of way access over area labelled 'Q' and 'R'. Following legal advice, Firstgas will have to rely on access rights contained within the Gas Act 1991 to achieve access to the pipeline within Proposed Lot 5.

20. The view of Firstgas is that the issues summarised in these examples could have been suitably mitigated (or avoided) if there was adequate consultation and design response at subdivision stage.
21. Following a review of the Section 42A report, I concur with the recommendations made in that report to accept Firstgas' submission S304.39 in relation to Rule SUB-R29 to amend the activity status. I agree with the s42A Reporting Officer who states that amending Rule SUB-R29 from a controlled activity to a restricted discretionary will better align with Policy INF-P7 in relation to managing reverse sensitivity, and would provide a consistent regulatory approach to addressing both the National Grid and the Gas Transmission Network. Deleting the Controlled Activity status of this rule in its entirety and replacing it with a Restricted Discretionary Activity status will enable Firstgas to appropriately manage the outcomes sought as part of a matter of discretion (not control) by Council. In my view, this activity status change will give effect to Objective 10 of the GWRPS, and also strategic outcomes SCA-01 and SCA-03 of the District Plan.
22. Following a review of the s42A report, I agree with the recommendations made to accept Firstgas' submission S304.40 in part in relation to the amendments sought to Rule SUB-R29 to include the subdivision of land containing and/or within 10m the Gas Transmission Pipeline Corridor.
23. The s42A Reporting Officer states that amending Rule SUB-R29 so that it specifically includes the subdivision of land containing *and/or within 10m* of a Gas Transmission Pipeline Corridor in the heading would be redundant given the additional definitions which Firstgas sought under the original submission. Firstgas

sought to add a number of definitions including 'Gas Transmission Pipeline Corridor' to be defined as '*The area of land within 10m either side of the centreline of the Gas Transmission Pipeline*', which will be addressed within Hearing Stream 9 as noted by the s42A Reporting Officer.

24. Following a review of the s42A report, I agree with the recommendation in the s42A report to support Firstgas submission s304.40 in relation to the inclusion of the subdivision of land within 30m of above ground related infrastructure within Rule SUB-R29.
25. New subdivision, and future land use development enabled by subdivision, can adversely affect the safe, efficient and effective functioning of the Gas Transmission Network, inclusive of above ground infrastructure. Therefore, it is essential to ensure that these potential effects are managed through requiring consent as a Restricted Discretionary Activity for subdivision within 30m of any above ground infrastructure. This will ensure that potential effects can be appropriately considered, and thereafter managed in the interest of health and safety, the protection of regionally significant infrastructure, and the actual or potential reverses sensitivity effects.
26. Following a review of the s42A report, I concur with the recommendations made in that report to reject Firstgas' submission in relation to amending 'sensitive' to 'residential' activities as part of Rule SUB-R29. I agree that it is more appropriate for this rule to apply to sensitive activities, which includes residential to ensure the health and safety of all sensitive activities is appropriately managed.
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 s377.218 WCC Environmental Reference Group, which seeks to retain Rule SUB-R29 as notified. As above, Firstgas is seeking to amend the activity status of this rule from Controlled to Restricted Discretionary and so that it includes the subdivision of land within the Gas Transmission Pipeline Corridor or subdivision of land within 30m of above ground infrastructure.

Section 42A Report Recommendations – Earthworks

Standard EW-S15 – Earthworks in the National Grid Yard and Gas Transmission Pipeline Corridor

28. Following a review of the Section 42A report, I concur in principle with the recommendation made in that report to accept Firstgas' submission seeking to retain Earthworks Standard EW-S15. Notwithstanding my general support, my view is that further clarification of what is required to achieve the following matters of standard EW-S15:
- a. The stability or integrity of the gas transmission pipeline is not compromised.
 - b. The earthworks must not involve:
 - i. Any permanent alteration to the profile, contour or height of the land within the corridor; or the planting of trees within 10 metres of the gas transmission pipeline.

As a permitted activity standard, certainty needs to be provided as opposed to what is a subjective standard at present. There is the potential for earthworks within the Gas Transmission Pipeline Corridor to affect the safe and efficient operation of the Gas Transmission Pipeline, therefore it is essential to ensure that this standard, a requirement of Rule EW-R23, provides certainty as to whether an activity complies or does not comply. To ensure the stability or integrity of the gas transmission pipeline is not compromised, earthworks within the Gas Transmission Pipeline must not exceed 400mm in depth.

Relief Sought

29. To give effect to Objective 10 of the GWRPS and the also Strategic Objectives SCA-01 and SCA-03, I consider the following amendments are necessary in order to protect FGL.
- 2. Earthworks within the gas transmission pipeline corridor must comply with the following:
 - a. The disturbance of earth within the Gas Transmission Pipeline Corridor shall not exceed 400mm in depth.

~~a. The stability or integrity of the gas transmission pipeline is not compromised.~~

~~b. The earthworks must not involve:~~

~~i. Any permanent alteration to the profile, contour or height of the land within the corridor; or the planting of trees within 10 metres of the gas transmission pipeline.~~

30. 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 s25.30 Rod Halliday, which seeks to define 'Gas Transmission Pipeline Corridor' as part of standard EW-S15. This aligns with Firstgas' original submission which seeks to add a definition for Gas Transmission Pipeline Corridor which is to be addressed in Hearing Stream 9.

Conclusion

31. 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.
32. I consider the relevant provisions as recommended in the Section 42A report, inclusive of my recommended changes to provide more certainty, 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 Wellington City;
 - (b) provide for the safe, efficient and effective operation, maintenance, replacement, upgrade, removal and/ or development of the network, as well as the ability to access that network;
 - (c) give effect to the relevant policies of the RPS; 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

18 July 2023

Appendix A

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

| Submission reference | Provision | Submission intent | Section 42A report recommendation | My opinion on the section 42A recommendation |
|----------------------|--------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------|-----------------------------------------------------------------------|
| Subdivision | | | | |
| S304.39 | SUB-R29 Subdivision of land containing a Gas Transmission Pipeline Corridor | Firstgas sought for the Controlled Activity status of this rule to be deleted in its entirety and replace with a Restricted Discretionary Activity status. A Restricted Discretionary Activity is considered more appropriate to manage the consultation outcomes sought as part of a matter of discretion (not control) by Council. | Accept in part | Agree, generally for the reasons outlined in the s42A officer report. |
| S304.40 | SUB-R29 Subdivision of land containing a Gas Transmission Pipeline Corridor | Firstgas sought to amend Rule SUB-R29 to ensure that it includes the subdivision of land containing and/or within 10m of the Gas Transmission Pipeline Corridor or subdivision of land within 30m of above ground related infrastructure. New subdivision, and future land use development enabled by subdivision, can adversely affect the safe, efficient and effective functioning of the Gas Transmission Network including above-ground stations. | Accept in part | Agree, generally for the reasons outlined in the s42A officer report. |
| FS97.12 | SUB-R29 Subdivision of land containing a Gas Transmission Pipeline Corridor | Firstgas oppose submission point 377.218 which seeks to retain Rule SUB-R29 as notified. Firstgas are seeking to amend this rule so that it includes the subdivision of land containing or within 10m of a Gas Transmission Pipeline Corridor or subdivision of land within 30m of above ground infrastructure. | Accept | Agree, generally for the reasons outlined in the s42A officer report. |

| Earthworks | | | | |
|------------|------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------|-----------------------------------------------------------------------|
| S304.1 | Definition of 'Earthworks' | Firstgas sought to retain the definition of 'Earthworks' as it is consistent with the National Planning Standards definition for Earthworks. | Accept | Agree, generally for the reasons outlined in the s42A officer report. |
| S304.41 | EW-R23 Earthworks within the Gas Transmission Pipeline Corridor | Firstgas sought to amend Rule EW-R23 to not require a copy of a Pipeline Easement Permit to the Council. The Pipeline Easement Permit is issued by Firstgas and is a paper-based permit issued to the contractor at the time of the works taking place. It would therefore not be achievable or practicable for a copy to be provided to Council prior to the commencement of the work. | Accept | Agree, generally for the reasons outlined in the s42A officer report. |
| S304.42 | EW-S15 Earthworks in the National Grid Yard and Gas Transmission Pipeline Corridor | Firstgas sought to retain Standard EW-S15, as notified. Firstgas supports this standard as far as it related to the Gas Transmission Pipeline Corridor. | Accept in part | Agree, with amendments. |
| FS97.13 | EW-S15 Earthworks in the National Grid Yard and Gas Transmission Pipeline Corridor | Firstgas supports submission 25.30 which seeks that the definition of 'Gas Transmission Pipeline Corridor' is clarified. The inclusion of this definition is required to help implement rules sought in the Plan which relate to the gas transmission pipeline corridor. The definition would allow buffer/setback areas to be determined and therefore appropriately managing potential reverse sensitivity effects. This definition would provide clarity to the plan user of the extent of the pipeline corridor. Pipeline Corridor' is clarified. | Accept in part | Agree, generally for the reasons outlined in the s42A officer report. |